UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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True Manufacturing Co., Inc.,

Plaintiff,

- against -

Admiral Craft Equipment Corp., and Guangdong Xingxing Refrigeration Equipment Co., Ltd.,

Defendants.

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Case No. _____________

Jury Trial Demanded

COMPLAINT

Plaintiff True Manufacturing Co., Inc. ("True"), by and through its attorneys, for its complaint against Defendants Admiral Craft Equipment Corp. ("AdCraft") and Guangdong Xingxing Refrigeration Equipment Co., Ltd., ("Xingxing") (collectively, "Defendants"), respectfully states as follows:

Nature of Action

1. This is an action for trademark infringement, unfair competition, false designation of origin, and counterfeiting under the Federal Trademark Act, 15 U.S.C. § 1051, *et seq.* (the "Lanham Act"), for contributory trademark infringement, contributory unfair competition, and contributory false designation of origin under the Lanham Act, for trademark infringement, unfair competition and trademark dilution under the laws of the State of New York, for trademark infringement, unfair competition and trademark dilution under the laws of the State of Missouri, for copyright infringement under 17 U.S.C. § 101, *et seq.* (the "Copyright Act"), and for contributory copyright infringement under the Copyright Act. Plaintiff seeks preliminary and permanent injunctive relief, and other relief.

Parties

2. Plaintiff True is a Missouri corporation, with its principal place of business at 2001 East Terra Lane, O'Fallon, Missouri 63366, United States of America.

3. On information and belief, Defendant AdCraft is a corporation organized and existing under the laws of New York, having a principal place of business at 800 Shames Drive, Westbury, New York 11590, United States of America.

4. On information and belief, Defendant Xingxing is a limited company organized and existing under the laws of the People's Republic of China, having a principal place of business at Nanfeng Avenue, No. 1, Zone D, Nanbian Industrial Park, Leping Town, Sanshui District, Foshan, Guangdong Province 528135, China.

Jurisdiction and Venue

5. This Court has original subject matter jurisdiction over Plaintiff's claims pursuant to 28 U.S.C. §§ 1331 and 1338, and 15 U.S.C. § 1121. The Court has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367(a). The Court also has jurisdiction under 28 U.S.C. § 1332 as the amount in controversy exceeds $75,000, exclusive of interest and costs, and is between citizens of different States and in which a citizen or subject of a foreign state is an additional party.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391 because a substantial part of the events giving rise to this action occurred in this judicial district, where AdCraft resides and where Xingxing does business, and where each is subject to personal jurisdiction.

Facts Common to All Counts

7. Plaintiff True is and has been an industry leader in commercial and residential refrigeration products for seventy years. True's products are extensively distributed and sold, throughout the United States and internationally, through various foodservice, residential, and beverage distributor channels. True advertises, markets, and sells its products under and in connection with its valuable and well-known TRUE® trademark, among other marks.

8. Plaintiff True is the owner of all right, title and interest in, to, and under the TRUE® mark which True first began using more than seventy years ago, in 1945. True currently uses its TRUE® mark on and in connection with a variety of commercial and residential refrigeration products, including without limitation, traditional reach-in refrigerators, under bar refrigeration, under counter refrigeration, work top refrigeration, and merchandise refrigeration, and related products.

9. True is the owner of all right, title and interest in and to, among others, the following U.S. trademark registrations, applications, and common law marks:

(i) U.S. Trademark Reg. No. 753,313 for TRUE, for "Refrigerated beverage coolers" in class 11;

(ii) U.S. Trademark Reg. No. 3,100,771 for TRUE (Stylized):

for "Refrigerated coolers" in class 11;

(iii) U.S. Trademark Reg. No. 3,703,458 for TRUE & Design:

for "Refrigerated coolers" in class 11;

(iv) U.S. Trademark Reg. No. 2,948,740 for TRUE REFRIGERATION, for "Refrigeration equipment, namely, food and beverage units in the nature of merchandisers; reach-in refrigerators; combination freezers and heated cabinets; food preparation refrigeration tables; roll-in refrigerators;

undercounter, underbar and worktop refrigerators and freezers; chef bases having refrigerated storage drawers and counterspace for a griddle or frier; milk coolers; deli cases; and parts for all of the foregoing" in class 11;

(v) U.S. Trademark Reg. No. 3,120,080 for TRUE & Design

for "Refrigerated coolers" in class 11;

(vi) U.S. Trademark Reg. No. 3,841,477 for TRUE PROFESSIONAL SERIES, for "Refrigerated coolers" in class 11;

(vii) U.S. Trademark Reg. No. 3,841,478 for TRUE PROFESSIONAL SERIES (Stylized):

for "Refrigerated coolers" in class 11;

(viii) U.S. Trademark Reg. No. 4,251,455 for TRUE PRECISION CONTROL, for "Refrigerated coolers" in class 11;

(ix) U.S. Trademark Reg. No. 4,754,861 for TRUE RESIDENTIAL, for "refrigerated coolers including ice makers" in class 11;

(x) U.S. Trademark Reg. No. 3,191,789 for Color Design:

for "refrigerated coolers" in Class 11;

(xi) U.S. Trademark Reg. No. 5,165,861 for TUC, for "refrigerators, namely, refrigerated coolers" in Class 11, which True has used in U.S. commerce since at least as early as 1988;

(xii) U.S. Trademark Reg. No. 5,165,934 for TBB, for "refrigerators, namely, refrigerated coolers" in Class 11, which True has used in U.S. commerce since at least as early as 1981;

(xiii) TDD, which True has used in U.S. commerce in connection with refrigeration products since at least as early as 1976;

including all goodwill therein and common law rights related thereto (collectively, the TRUE® Marks").

10. True has used the TRUE® Marks in U.S. commerce in connection with refrigeration and related goods and services since long prior to the acts of Defendants Xingxing and AdCraft alleged herein.

11. Since at least as early as 1988, True has used one or more model designations incorporating True's TUC® trademark, including without limitation, TUC-27, TUC-48, TUC-72, TUC-27F, and TUC-48F.

12. Since at least as early as 1981, True has used one or more model designations incorporating True's TBB® trademark, including without limitation, TBB-1, TBB-2, TBB-24-48, and TBB-24-60.

13. Since at least as early as 1976, True has used one or more model designations incorporating True's TDD™ trademark, including without limitation, TDD-1, TDD-2, TDD-3, and TDD-4. The model designations referenced in Paragraphs 11 through 13 are collectively referred to herein as the "True Model Designations."

14. The True Model Designations are inherently distinctive and non-functional.

15. As a result of its adoption and long, continuous use of the True Model Designations, and its extensive nationwide and international sales and advertising of the TRUE® products under and in connection with the True Model Designations, the True Model Designations have acquired "secondary meaning," in that they have become well-known to the consuming public as an indication of source for True's TRUE® products. The True Model

Designations represent the substantial goodwill associated with True and its TRUE® products.

16. The TRUE® Marks and the True Model Designations have been used, and continue to be used, by Plaintiff True among the relevant purchasing public and consumers, to identify the source or origin of True's high-quality refrigeration products and, further, to distinguish such products from those products offered by its competitors and others.

17. True has expended, and continues to expend, a substantial amount of resources, money, time and effort promoting, marketing, advertising and building consumer recognition and goodwill in its trademarks, including, but not limited to, the TRUE® Marks and the True Model Designations.

18. In support of its marketing efforts, True produces high quality and aesthetically pleasing photographs of its refrigeration products, which it publishes, displays and distributes in its marketing materials, specification sheets, user manuals, and website, among other channels, and which it makes widely available to the general public.

19. On or about October 27, 2014, True applied to the United States Copyright Office for registration of a group of three photographs containing images of True's authentic TRUE® models TBB24-48G, TBB24-60G, and TBB24-72G, with which it delivered the deposit, application, and fee required for registration. The group of works, entitled "Group of Beverage Coolers, published Aug. 9, 2011 to Nov. 11, 2011; 3 photos," issued as Registration No. VA 1-933-522.

20. On or about October 29, 2015, True applied to the United States Copyright Office for registration of a group of six photographs containing images of True's authentic TRUE® models TUC-27, TUC-27D-2-HC, TDD-2, TDD-3, TDD-4, and TBB24-48G, with which it delivered the deposit, application, and fee required for registration. The group of works, entitled

"Refrigerated Coolers and Beverage Dispensers," issued as Registration No. VA 1-979-295.

21. On or about October 29, 2015, True applied to the United States Copyright Office for registration of a group of five photographs containing images of True's authentic TRUE® models TUC-27, TUC-48, TBB24-48G-S, TBB24-48, and TUC-27D-2-HC, with which it delivered the deposit, application, and fee required for registration. The group of works, entitled "Refrigerated Coolers," issued as Registration No. VA 1-979-296.

22. On or about October 29, 2015, True applied to the United States Copyright Office for registration of a group of two photographs containing images of True's authentic TRUE® models GDM-41SL-60-LD and TBB24-48G, with which it delivered the deposit, application, and fee required for registration. The group of works, entitled "Refrigerated Cooler Cabinets," issued as Registration No. VA 1-979-297.

23. On or about November 23, 2015, True applied to the United States Copyright Office for registration of a group of 20 photographs containing images of True's authentic TRUE® T-SERIES® models, including the T-49, with which it delivered the deposit, application, and fee required for registration. The group of works, entitled "True Manufacturing Co., Inc. T-Series Coolers 2013," issued as Registration No. VA 1-979-284.

24. On or about December 9, 2015, True applied to the United States Copyright Office for registration of a group of 87 photographs containing images of True's authentic TRUE® TUC® models, including the TUC-27D-2-HC, with which it delivered the deposit, application, and fee required for registration. The group of works, entitled "True Manufacturing Co., Inc.'s Undercounter Coolers 2009," issued as Registration No. VA 1-998-056. The photographs referenced in Paragraphs 18 through 24 are collectively referred to herein as the "True Photographs".

25. True has standing to bring the action for copyright infringement pleaded below.

Defendant Xingxing

26. On information and belief, Defendant Xingxing manufactures, imports and sells into the United States refrigeration and related products, including traditional reach-in refrigerators, under bar refrigeration, under counter refrigeration, work top refrigeration, and merchandise refrigeration, that directly compete with those of Plaintiff True.

27. On information and belief, Defendant Xingxing offers original equipment manufacturing ("OEM") and/or private labeling services, whereby it manufactures and sells refrigeration and related products bearing the trademarks of its U.S. distributor-customers.

28. On information and belief, Defendant AdCraft is one such U.S. distributor-customer of Defendant Xingxing, among several other distributor-customers in the United States.

29. On information and belief, Defendant AdCraft is the exclusive distributor in the United States of Defendant Xingxing's U-STAR line of refrigeration products.

30. On information and belief, Defendant Xingxing's total annual sales volume is between US$50 Million and US$100 Million, and over 80% of its sales are made in North America.

31. On information and belief, Defendant Xingxing sells and distributes its products throughout the United States, including in the State of New York and in this judicial district, to and/or through its U.S. distributor-customers, including Defendant AdCraft.

32. Without authority from True, Defendant Xingxing obtained copies of each of the True Photographs, made minor edits to some of them, and copied, distributed, and publicly displayed the photographs in the advertising, offer for sale, and sale of its products to U.S. distributor-customers in violation of True's exclusive rights.

33. In particular, Defendant Xingxing altered some of the True Photographs to remove the TRUE® Marks from the authentic TRUE® products pictured in the True Photographs.

34. In addition, Defendant Xingxing altered some of the True Photographs to change the appearance of the TRUE® products, including without limitation modifying True's trade dress recessed handles and grille designs, on information and belief, in an effort to conceal Defendant's wrongdoing.

35. Further, Defendant Xingxing altered some of the True Photographs to alter the appearance of the contents of the TRUE® products with glass doors. On information and belief, Defendant made such alterations in an effort to conceal Defendant's wrongdoing, and in response to previous copyright and trademark infringement litigation brought by Plaintiff True against another of Defendant Xingxing's U.S. distributor-customers.

36. Defendant Xingxing left many of the True Photographs unchanged, and the TRUE® Marks and True's trade dress are clearly visible in some of the photographs.

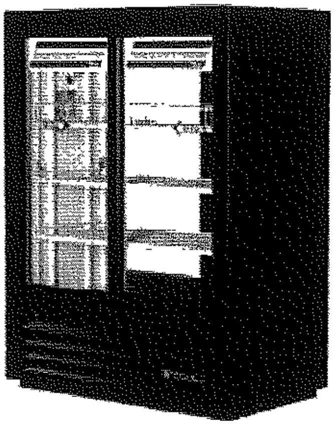
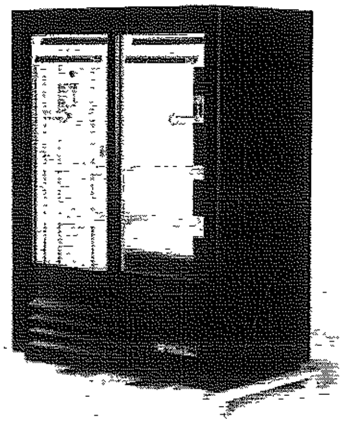
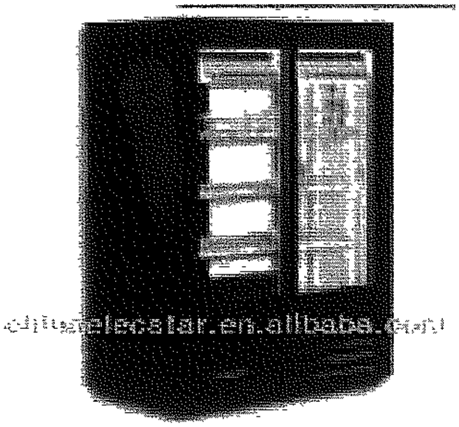
37. Defendant Xingxing used and continues to use altered and unaltered True Photographs (collectively, "Infringing Photographs") in the advertising, offer for sale, and sale of its products to U.S. distributor-customers, misrepresenting the nature and/or source of Defendant Xingxing's goods, and in direct competition with True's authentic TRUE® products.

38. On information and belief, Defendant Xingxing distributed the Infringing Photographs to its actual and potential U.S. distributor-customers for use in their respective advertising, offer for sale, and sale of Defendant Xingxing's products to U.S. resellers and consumers, misrepresenting the nature and/or source of Defendant Xingxing's and/or its U.S. distributor-customers' goods, and in direct competition with True's authentic TRUE® products.

39. On information and belief, in addition to Defendant AdCraft, other U.S. distributor-customers of Defendant Xingxing include, among others, Jiaxing Elecstar Refrigeration Equipment Marketing Center ("Elecstar"), Alamo Refrigeration, L.P. ("Alamo"), and Metalfrio Solutions, Inc. ("Metalfrio").

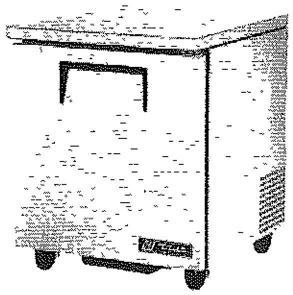
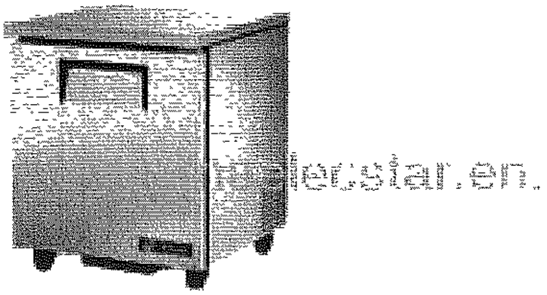
40. On information and belief, Defendant Xingxing copied and distributed to each of Elecstar, Alamo, and Metalfrio one or more Infringing Photographs, which Elecstar, Alamo, and Metalfrio further copied and distributed in their respective advertising, offer for sale, and sale of Defendant Xingxing's products to U.S. resellers.

41. Specifically, Defendant Xingxing provided Elecstar altered and unaltered photographs of the TRUE® GDM-41SL-60-LD to advertise, offer for sale and sell Elecstar's and/or Xingxing's directly competing refrigeration products, true and correct copies of which are below.

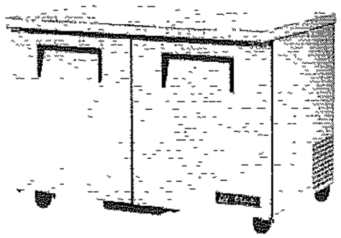
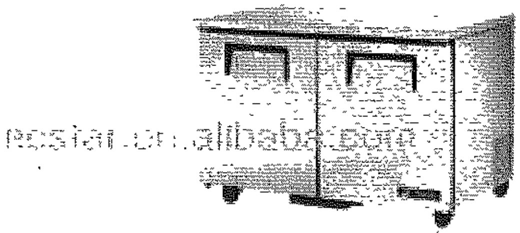
True Photograph TRUE® GDM-41SL-60-LD	  (as used on True's website) (as registered)
Infringing Photograph Elecstar 320,480L	chinaelecstar.en.alibaba.com
Infringing Photograph Elecstar SC480	

42. Defendant Xingxing provided Elecstar an unaltered photograph of the TRUE®

TUC-27-HC to advertise, offer for sale and sell Elecstar's and/or Xingxing directly competing refrigeration products, true and correct copies of which are below.

True Photograph TRUE® TUC-27	
Infringing Photograph Elecstar TUC27R	

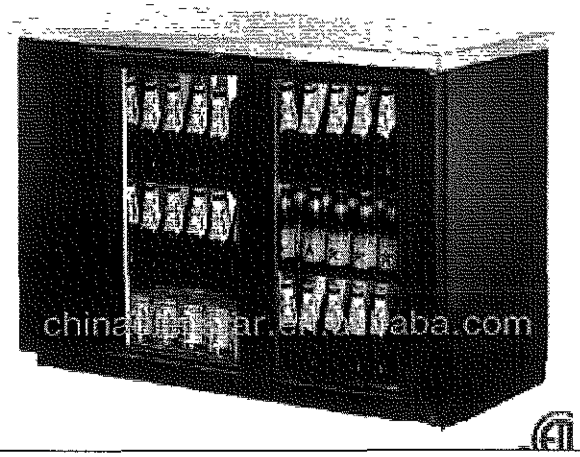
43. Defendant Xingxing provided Elecstar an unaltered photograph of the TRUE® TUC-48 to advertise, offer for sale and sell Elecstar's and/or Xingxing's directly competing refrigeration products, true and correct copies of which are below.

True Photograph TRUE® TUC-48	
Infringing Photograph Elecstar TUC48R	

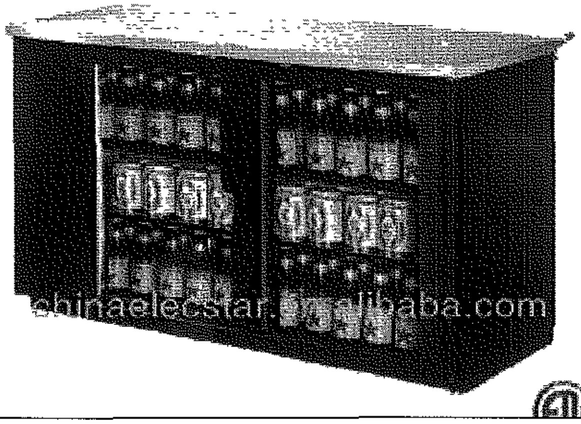
44. Defendant Xingxing provided Elecstar altered and unaltered photographs of the

TRUE® TBB24-48G to advertise, offer for sale and sell Elecstar's and/or Xingxing's directly competing refrigeration products, true and correct copies of which are below.

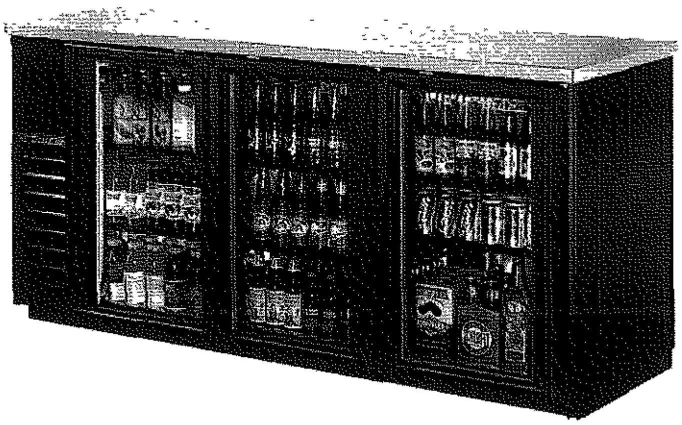
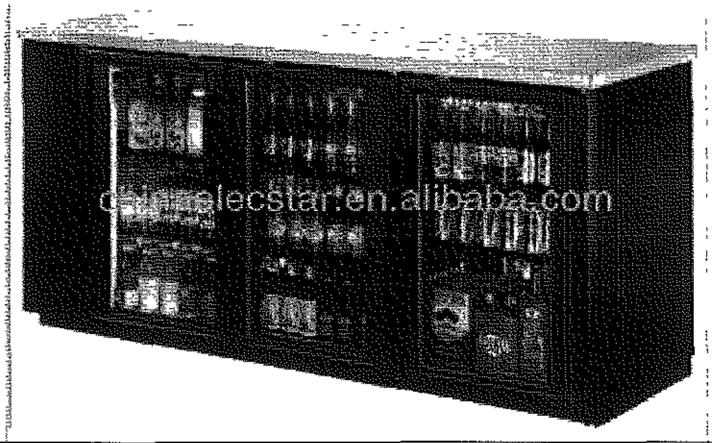
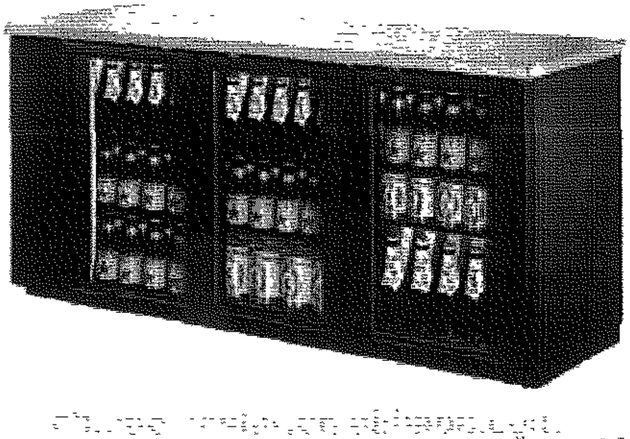
True Photograph TRUE® TBB24-48G	
Infringing Photograph Elecstar UBB-24-48G	
Infringing Photograph Elecstar UBB-24-48G	

Infringing Photograph Elecstar UBB-24-48G	

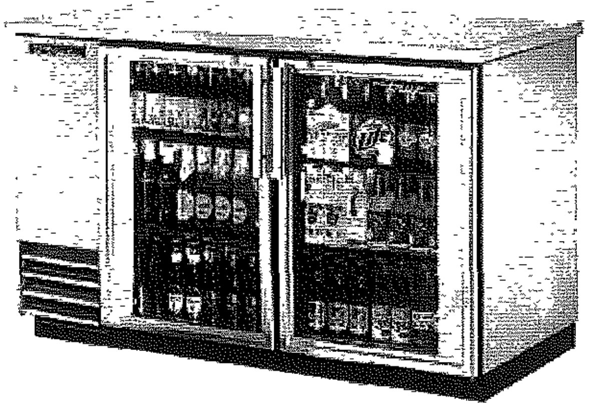
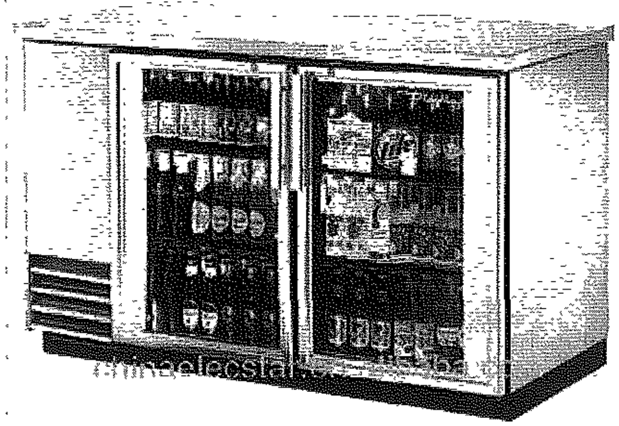
45. Defendant Xingxing provided Elecstar altered photographs of the TRUE® TBB24-60G to advertise, offer for sale and sell Elecstar's and/or Xingxing's directly competing refrigeration products, true and correct copies of which are below.

True Photograph TRUE® TBB24-60G	
Infringing Photograph Elecstar UBB-24-60G	chinaelecstar.en.alibaba.com
Infringing Photograph Elecstar UB-24-60G	

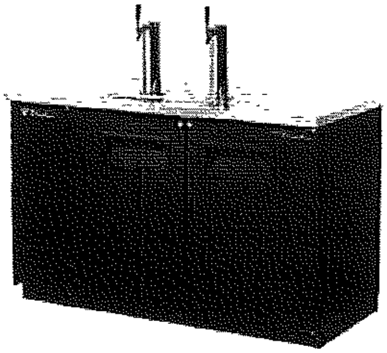
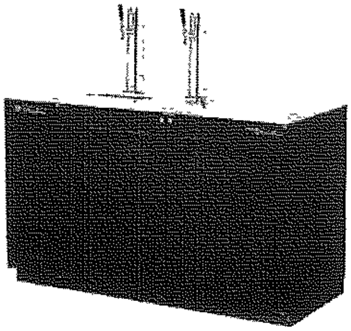
46. Defendant Xingxing provided Elecstar altered photographs of the TRUE® TBB24-72G to advertise, offer for sale and sell Elecstar's and/or Xingxing's directly competing refrigeration products, true and correct copies of which are below.

True Photograph TRUE® TBB24-72G	
Infringing Photograph Elecstar UBB24-72G	
Infringing Photograph Elecstar UBB-24-72G	

47. Defendant Xingxing provided Elecstar an altered photograph of the TRUE® TBB24-48G-S to advertise, offer for sale and sell Elecstar's and/or Xingxing's directly competing refrigeration products, true and correct copies of which are below.

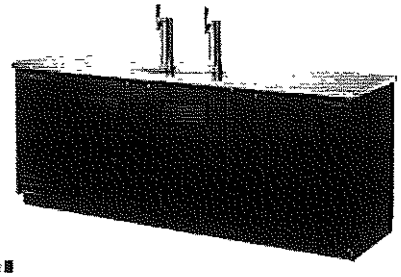
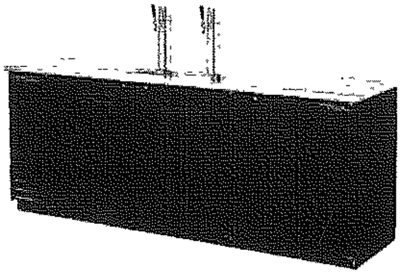
True Photograph TRUE® TBB24-48G-S	
Infringing Photograph Elecstar SGC	

48. Defendant Xingxing provided Elecstar an altered and an unaltered photograph of the TRUE® TDD-2 to advertise, offer for sale and sell Elecstar's and/or Xingxing's directly competing refrigeration products, true and correct copies of which are below.

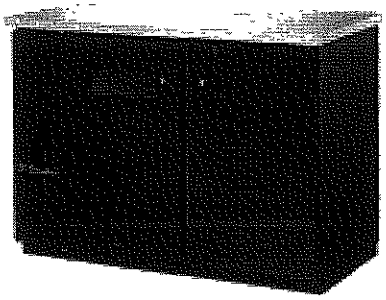
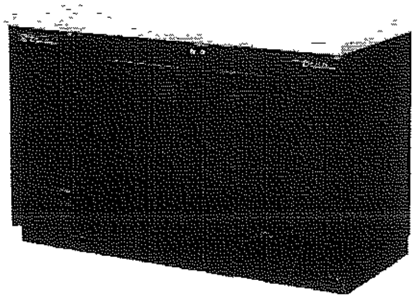
True Photograph TRUE® TDD-2	 (as used on True's website)  (as registered)
Infringing Photograph Elecstar TDD2	chinaelecstar.en.alibaba.co
Infringing Photograph Elecstar UDB-24-48	chinaelecstar.en.alibaba.com

49. Defendant Xingxing provided Elecstar an altered photograph of the TRUE® TDD-4 to advertise, offer for sale and sell Elecstar's and/or Xingxing's directly competing

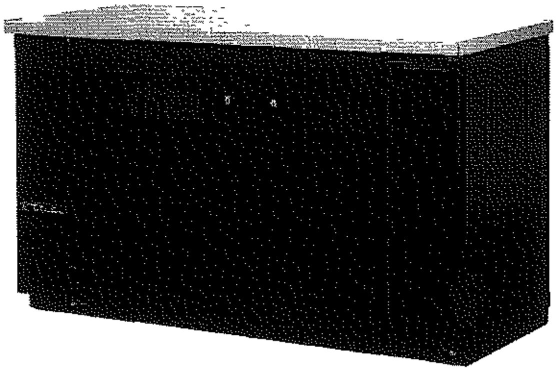
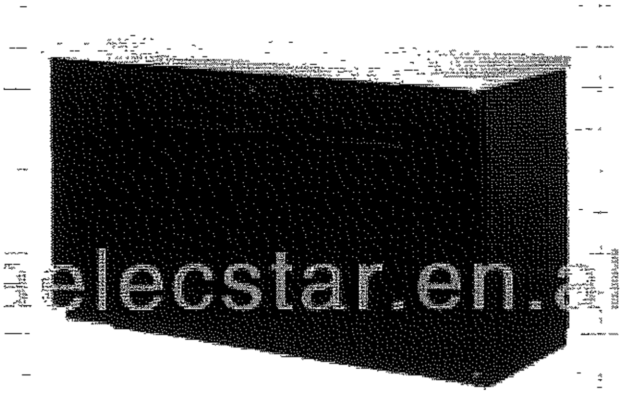
refrigeration products, true and correct copies of which are below.

True Photograph TRUE® TDD-4	  (as used on True's website) (as registered)
Infringing Photograph Elecstar UDB-24-72	chinaelecstar.en.alibaba.com

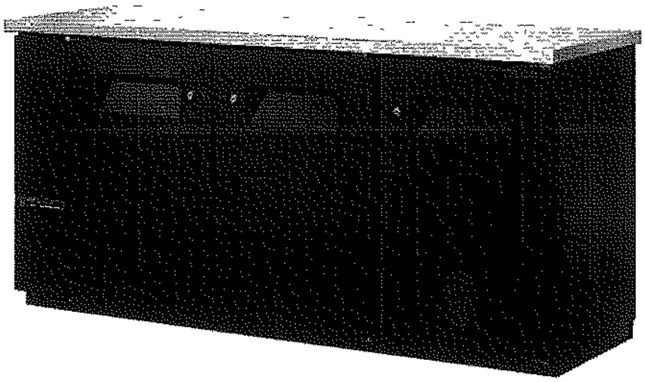
50. Defendant Xingxing provided Elecstar an altered photograph of the TRUE® TBB24-48 to advertise, offer for sale and sell Elecstar's and/or Xingxing's directly competing refrigeration products, true and correct copies of which are below.

True Photograph TRUE® TBB24-48	  (as used on True's website) (as registered)
Infringing Photograph Elecstar UBB-24-48F	chinaelecstar.en.alibaba.com

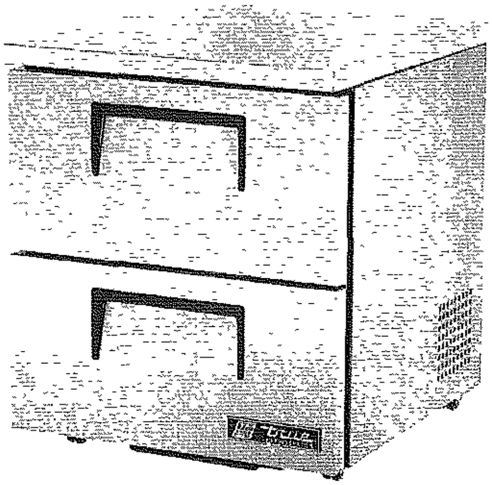
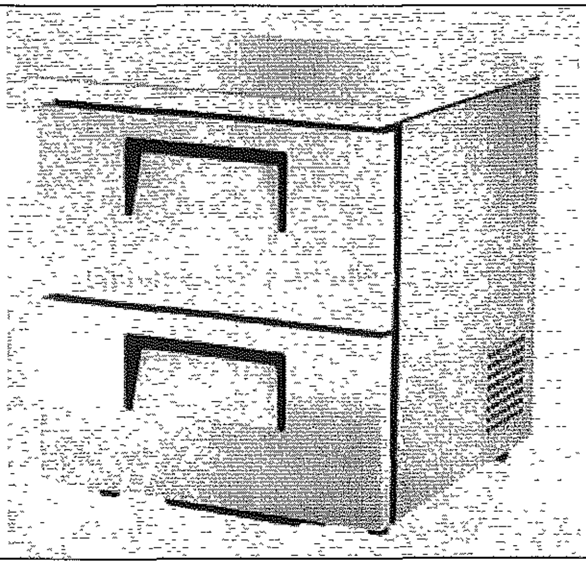
51. Defendant Xingxing provided Elecstar an altered photograph of the TRUE® TBB24-60 to advertise, offer for sale and sell Elecstar's and/or Xingxing's directly competing refrigeration products, true and correct copies of which are below.

True Photograph TRUE® TBB24-60	
Infringing Photograph Elecstar UBB-24-60F	

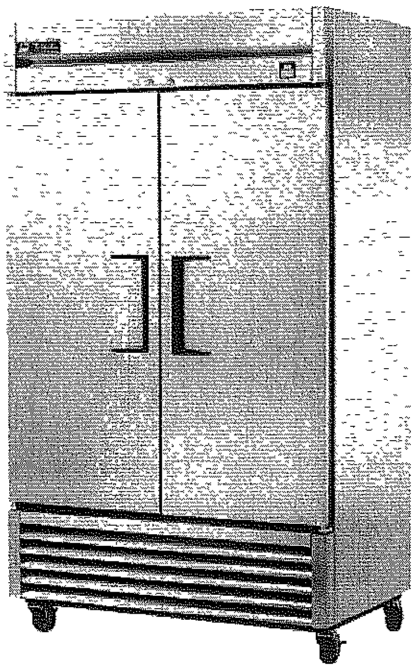
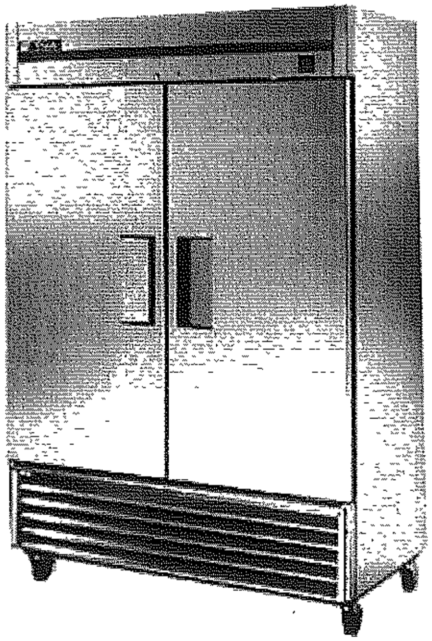
52. Defendant Xingxing provided Elecstar an altered photograph of the TRUE® TBB24-72 to advertise, offer for sale and sell Elecstar's and/or Xingxing's directly competing refrigeration products, true and correct copies of which are below.

True Photograph TRUE® TBB24-72	
Infringing Photograph Elecstar UBB-24-72F	chinaelecstar.en.alibaba.com

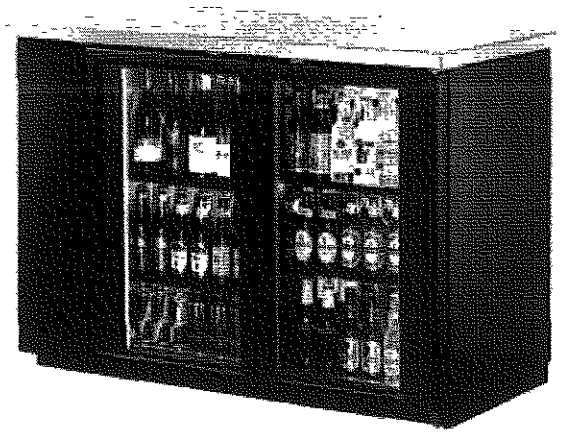
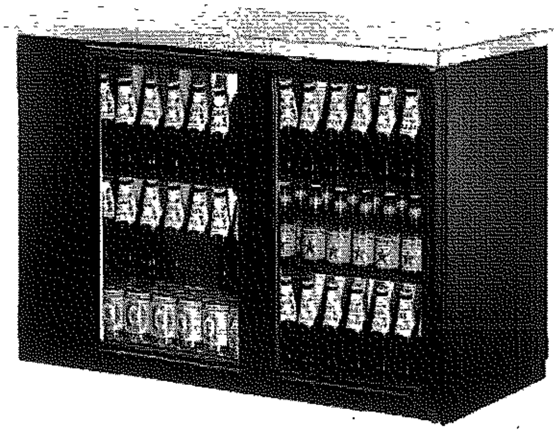
53. Defendant Xingxing provided Elecstar an altered photograph of the TRUE® TUC-27D-2-HC to advertise, offer for sale and sell Elecstar's and/or Xingxing's directly competing refrigeration products, true and correct copies of which are below.

True Photograph TRUE® TUC-27D-2-HC	
Infringing Photograph Elecstar BC-116OD	

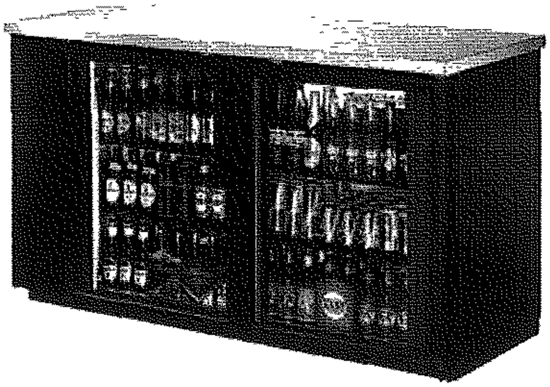
54. Defendant Xingxing provided Alamo an unaltered photograph of the TRUE® T-49 to advertise, offer for sale and sell Alamo's and/or Xingxing's directly competing refrigeration products, true and correct copies of which are below.

True Photograph TRUE® T-49	
Infringing Photograph Alamo ST49BR / ST49BF	

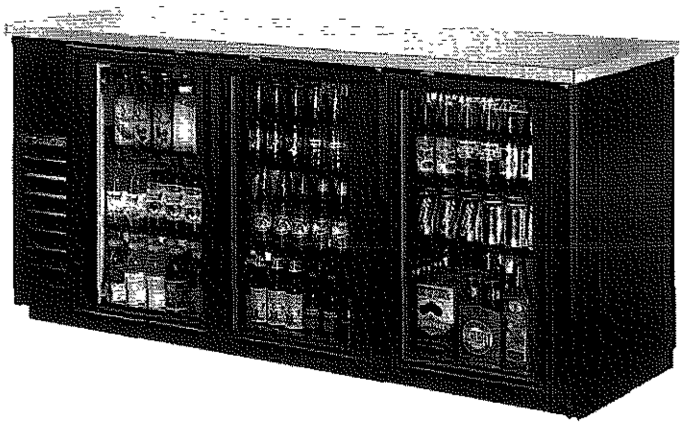
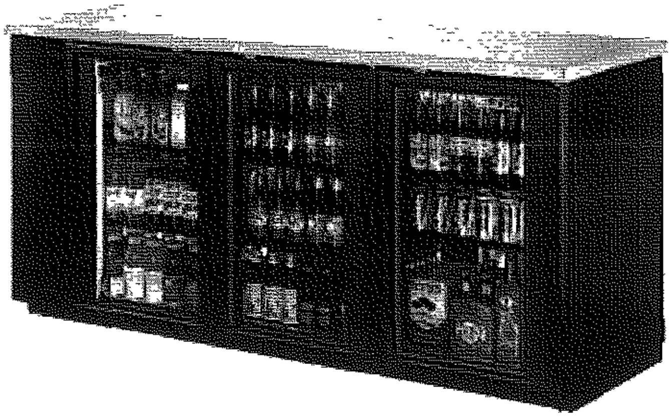
55. Defendant Xingxing provided Alamo altered photographs of the TRUE® TBB24-48G to advertise, offer for sale and sell Alamo's and/or Xingxing's directly competing refrigeration products, true and correct copies of which are below.

True Photograph TRUE® TBB24-48G	
Infringing Photograph Alamo XUBB48	
Infringing Photograph Alamo XUBB48	

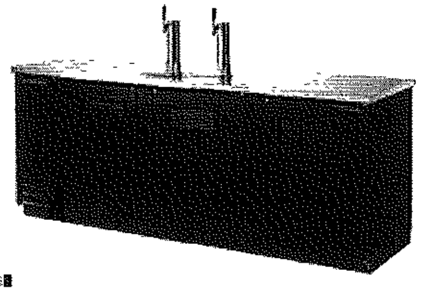
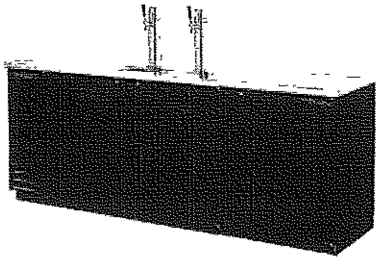
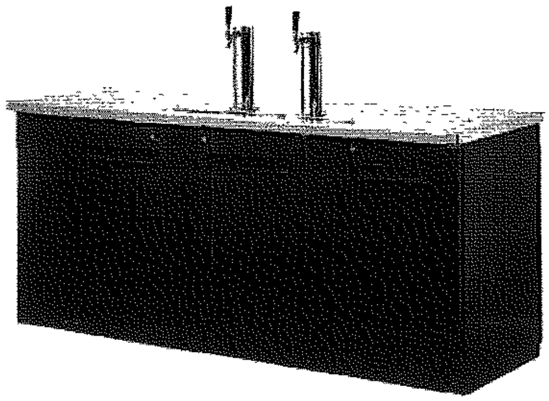
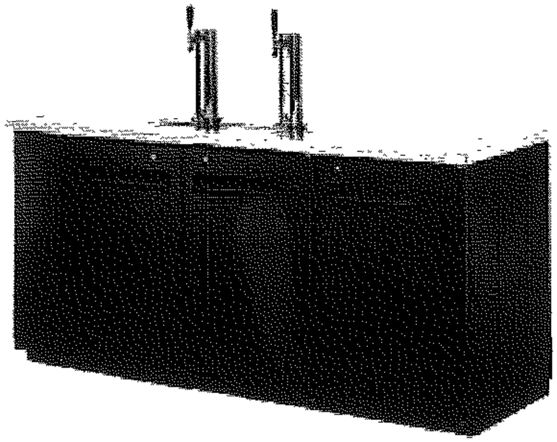
56. Defendant Xingxing provided Alamo altered photographs of the TRUE® TBB24-60G to advertise, offer for sale and sell Alamo's and/or Xingxing's directly competing refrigeration products, true and correct copies of which are below.

True Photograph TRUE® TBB24-60G	
Infringing Photograph Alamo XUBB60	

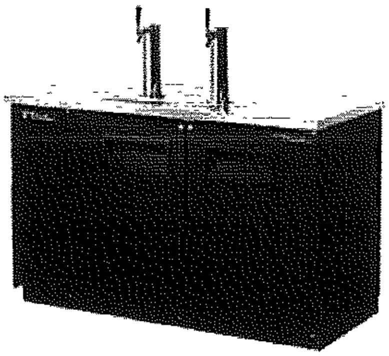
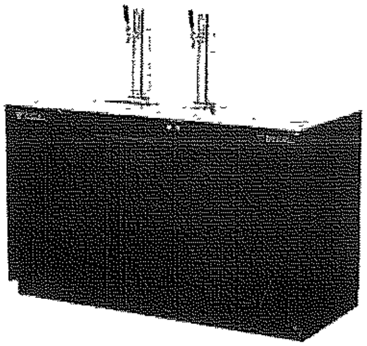
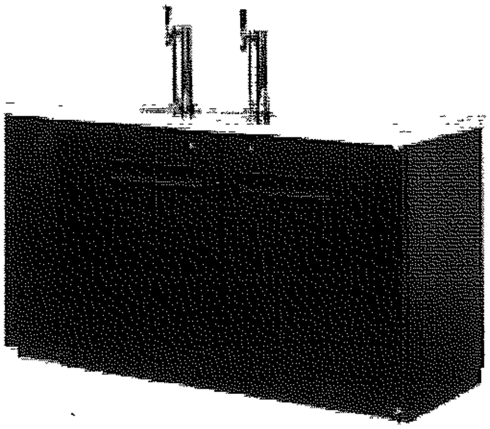
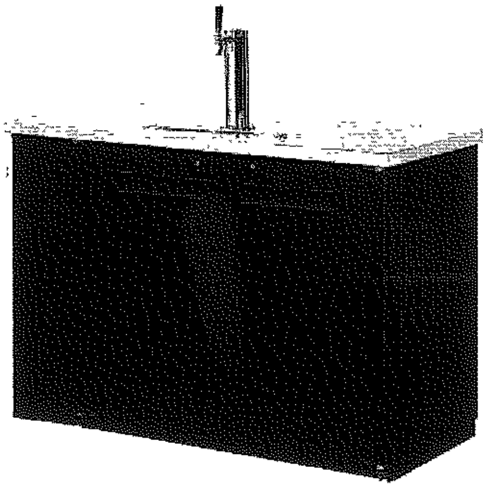
57. Defendant Xingxing provided Alamo altered photographs of the TRUE® TBB24-72G to advertise, offer for sale and sell Alamo's and/or Xingxing's directly competing refrigeration products, true and correct copies of which are below.

True Photograph TRUE® TBB24-72G	
Infringing Photograph Alamo XUBB72	

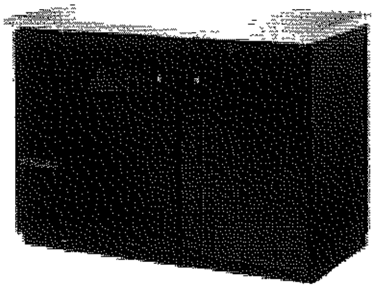
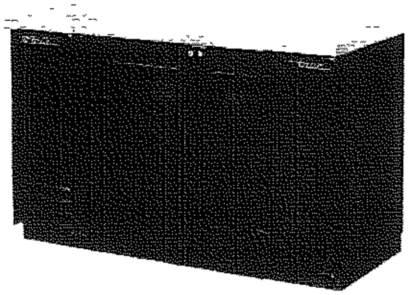
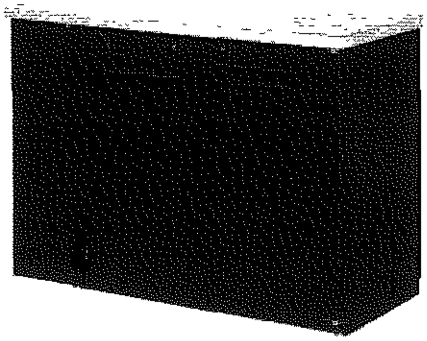
58. Defendant Xingxing provided Alamo altered photographs of the TRUE® TDD-4 to advertise, offer for sale and sell Alamo's and/or Xingxing's directly competing refrigeration products, true and correct copies of which are below.

True Photograph TRUE® TDD-4	  (as used on True's website) (as registered)
Infringing Photograph Alamo XUDD-4K, XUDB72, and XUDD4	
Infringing Photograph Alamo XUDD72	

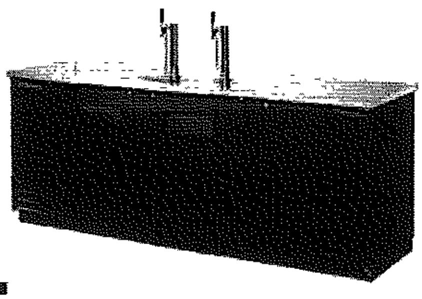
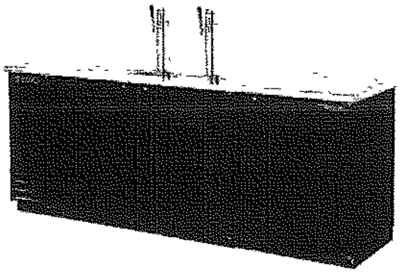
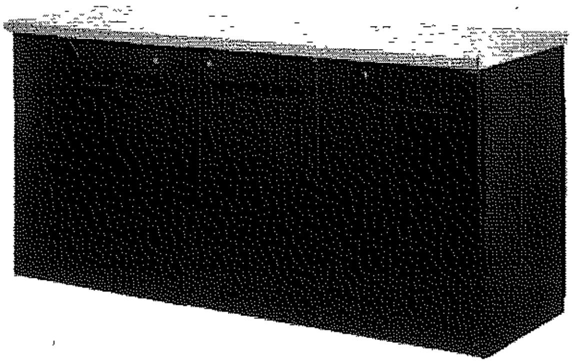
59. Defendant Xingxing provided Alamo an altered photograph of the TRUE® TDD-2 to advertise, offer for sale and sell Alamo's and/or Xingxing's directly competing refrigeration products, true and correct copies of which are below.

True Photograph TRUE® TDD-2	  (as used on True's website) (as registered)
Infringing Photograph Alamo XUDB60	
Infringing Photograph Alamo XUDD2K and XUDB48	

60. Defendant Xingxing provided Alamo an altered photograph of the TRUE® TBB24-48 to advertise, offer for sale and sell Alamo's and/or Xingxing's directly competing refrigeration products, true and correct copies of which are below.

True Photograph TRUE® TBB24-48	 (as used on True's website)	 (as registered)
Infringing Photograph Alamo XUDD-3		

61. Defendant Xingxing provided Alamo an altered photograph of the TRUE® TDD-4 to advertise, offer for sale and sell Alamo's and/or Xingxing's directly competing refrigeration products.

True Photograph TRUE® TDD-4	 (as used on True's website)  (as registered)
Infringing Photograph Alamo XUDD-4	

62. As a result of prior enforcement actions by True, each of Elecstar, Alamo, and Metalfrio, on information and belief, has presently ceased its respective use of the Infringing Photographs.

63. True believes Defendant Xingxing may be copying, preparing derivative works based on, distributing, and/or publicly displaying other Infringing Photographs in addition to those specifically set forth above.

64. On information and belief, Defendant Xingxing copied, distributed, and/or publicly displayed the Infringing Photographs, and continues to do so, via the Internet and other electronic and/or print media.

65. The Infringing Photographs are substantially similar to the True Photographs.

66. By displaying, and by causing its U.S. distributor-customers to display, photographs of TRUE® products, Defendant Xingxing is misrepresenting its products as TRUE® products in an attempt to deceive and confuse consumers and the relevant purchasing public.

67. Consumers, potential consumers, and the relevant public are likely to be confused, actually confused, misdirected, and deceived by use of photographs of TRUE® products in the advertising, offer for sale and sale of Xingxing's directly competing products.

68. Consumers, potential consumers, and the relevant public are likely to be confused, and actually confused, between Plaintiff True's TRUE® Marks and Defendant Xingxing's use of the TRUE® Marks.

69. Without authority from True, Defendant Xingxing has used the TRUE® Marks, as visible in the unaltered photographs and certain altered photographs, in the advertising, offer for sale, and sale of Xingxing products in direct competition with authentic TRUE® products, in violation of True's exclusive rights.

70. Without authority from True, Defendant Xingxing has misrepresented TRUE® products as Xingxing products in the advertising, offer for sale, and sale of Xingxing products, in an attempt to deceive and confuse consumers and the relevant purchasing public.

71. By distributing the Infringing Photographs to its U.S. distributor-customers for the purposes of advertising, offer for sale and sale of Xingxing products, Defendant Xingxing intentionally induced, materially contributed to, and/or caused its U.S. distributor-customers to misrepresent TRUE® products as Xingxing products in an attempt to deceive and confuse consumers and the relevant purchasing public.

72. Without authority from True, Defendant Xingxing has copied, prepared derivative

works based on, distributed, and publicly displayed the True Photographs and/or substantially similar copies thereof, in violation of True's exclusive rights.

73. By distributing the Infringing Photographs to its U.S. distributor-customers for the purposes of further copying, distribution and/or public display, Defendant Xingxing intentionally induced, materially contributed to, and/or caused its U.S. distributor-customers to copy, distribute and/or publicly display the True Photographs and/or substantially similar copies thereof, in violation of True's exclusive rights.

74. In addition, Defendant Xingxing used and continues to use, without authority from True, True's TUC® trademark, and/or confusingly similar variations thereof, on and in connection with the marketing, offer for sale and/or sale of Defendant's directly competing refrigeration products, despite True's long established rights in and to the TUC® trademark.

75. Defendant Xingxing also used and continues to use, without authority from True, True's TBB® trademark, and/or confusingly similar variations thereof, on and in connection with the marketing, offer for sale and/or sale of Defendant's directly competing refrigeration products, despite True's long established rights in and to the TBB® trademark.

76. Defendant Xingxing also used and continues to use, without authority from True, True's TDD® trademark, and/or confusingly similar variations thereof, on and in connection with the marketing, offer for sale and/or sale of Defendant's directly competing refrigeration products, despite True's long established rights in and to the TDD® trademark.

77. Defendant Xingxing also used and continues to use, without authority from True, the True Model Designations, and/or confusingly similar variations thereof, on and in connection with the marketing, offer for sale and/or sale of Defendant's directly competing refrigeration products, including without limitation, TUC27R, TUC27F, TUC48F, TUC72R, UBB-1, UBB-2,

UDD-1, UDD-2, UDD-3, and UDD-4 despite True's long established rights in and to the True Model Designations.

78. True believes Defendant Xingxing may be using, without authority from True, other marks and model designations of True, and/or confusingly similar variations thereof, on and in connection with the marketing, offer for sale and/or sale of Defendant's directly competing refrigeration products.

79. Consumers, potential consumers, and the relevant public are likely to be confused, actually confused, misdirected, and deceived into believing that Defendant's products are manufactured by, affiliated with, associated with, licensed by, and/or otherwise connected to or with Plaintiff True.

Defendant AdCraft

80. On information and belief, Defendant AdCraft manufactures, sources, distributes and/or sells refrigeration and related products, including traditional reach-in refrigerators, under bar refrigeration, under counter refrigeration, work top refrigeration, and merchandise refrigeration, and related products, in direct competition with Plaintiff True.

81. On information and belief, Defendant AdCraft purchases, imports, distributes and/or resells products manufactured by Defendant Xingxing.

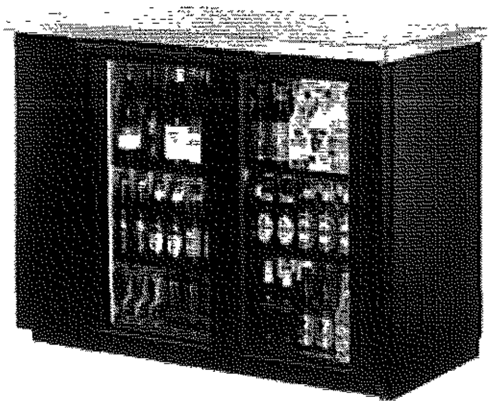
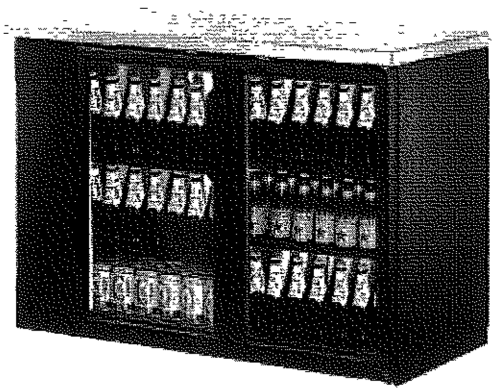
82. On information and belief, Defendant Xingxing manufactures products for Defendant AdCraft, including under an OEM and/or private label arrangement, and Defendant Xingxing supplies Defendant AdCraft with photographs for use in the marketing, offer for sale and sale of such products.

83. On information and belief, Defendant AdCraft sells and distributes its products, including those manufactured by Defendant Xingxing, throughout the United States, including to

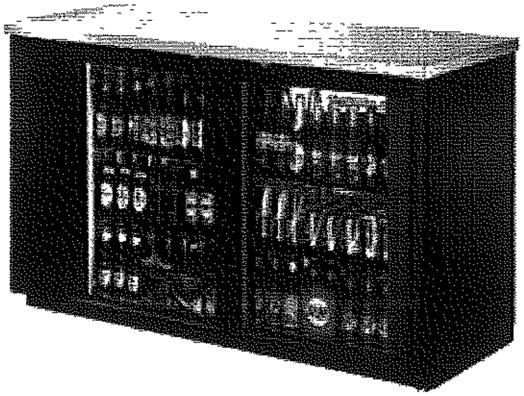
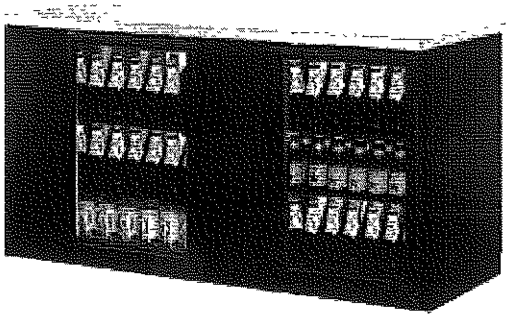
and/or through a network of brick-and-mortar and e-commerce resellers.

84. Without authority from True, Defendant AdCraft used and continues to use altered and/or unaltered True Photographs, directly and indirectly, in the advertising, offer for sale, and sale of its products to resellers and/or consumers, misrepresenting the nature and/or source of Defendant AdCraft's and/or Defendant Xingxing's products.

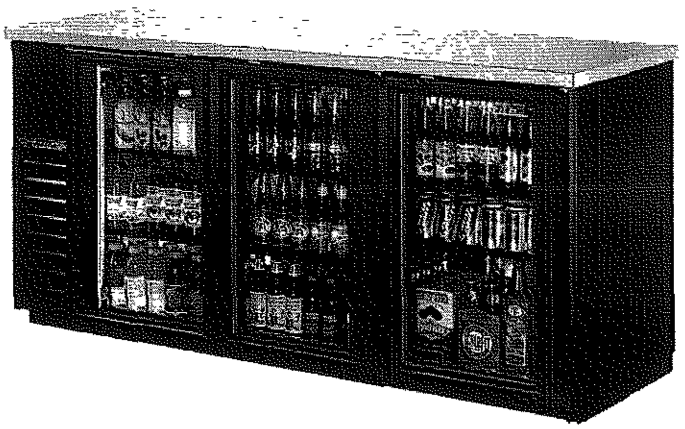
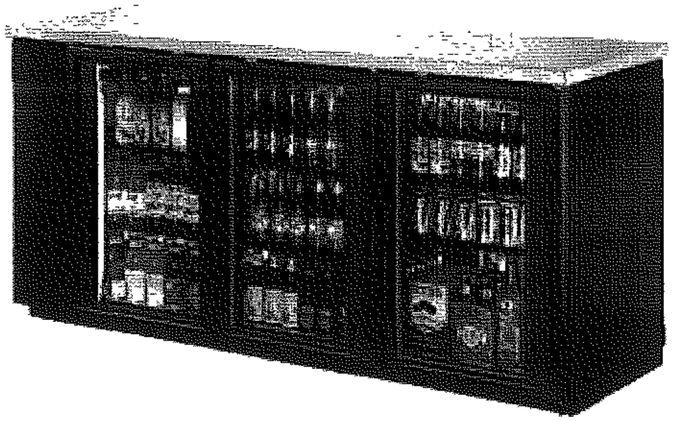
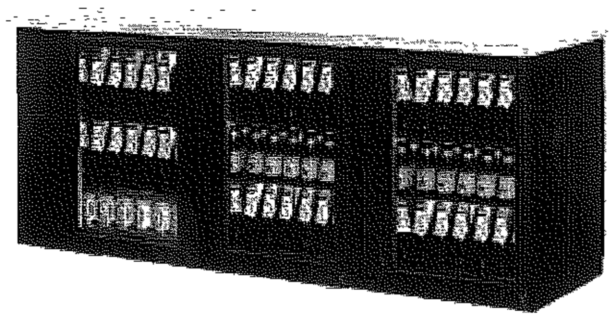
85. In particular, Defendant AdCraft has used and uses altered photographs of the TRUE® TBB24-48G to advertise, offer for sale and sell AdCraft's and/or Xingxing's directly competing refrigeration products, true and correct copies of which are below.

True Photograph TRUE® TBB24-48G	
Infringing Photograph AdCraft BDBB-4824G and USBB-4824G	
Infringing Photograph AdCraft BDBB-5928G and USBB-5928G	

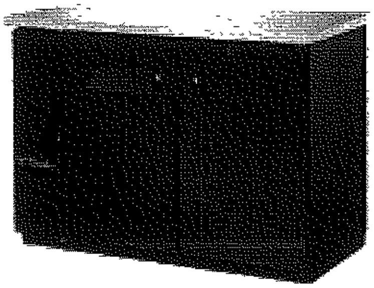
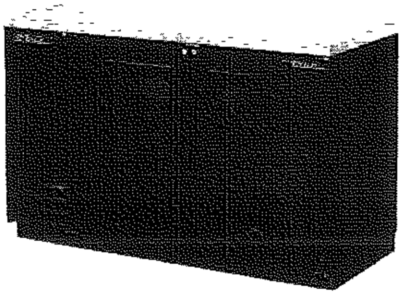
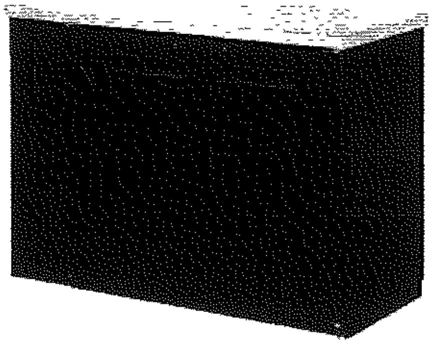
86. Defendant AdCraft has used and uses altered photographs of the TRUE® TBB24-60G to advertise, offer for sale and sell AdCraft's and/or Xingxing's directly competing refrigeration products, true and correct copies of which are below.

True Photograph TRUE® TBB24-60G	
Infringing Photograph AdCraft BDBB-6024G and USBB-6024G	
Infringing Photograph AdCraft BDBB-6928G and USBB-6928G	

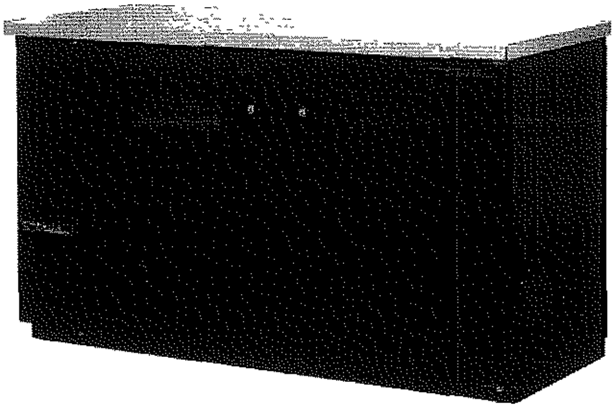
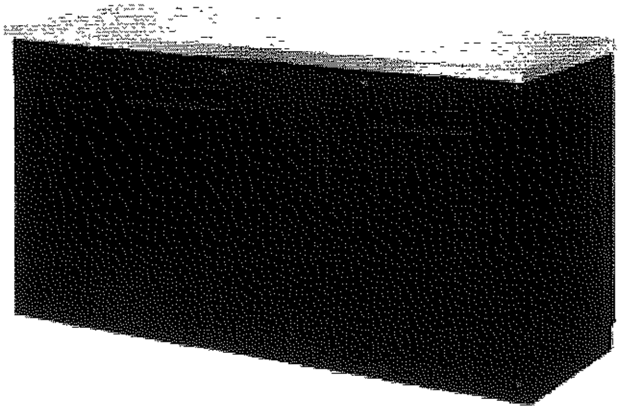
87. Defendant AdCraft has used and uses altered photographs of the TRUE® TBB24-72G to advertise, offer for sale and sell AdCraft's and/or Xingxing's directly competing refrigeration products, true and correct copies of which are below.

True Photograph TRUE® TBB24-72G	
Infringing Photograph AdCraft BDBB-7224G and USBB-7224G	
Infringing Photograph AdCraft BDBB-9028G and USBB-9028G	

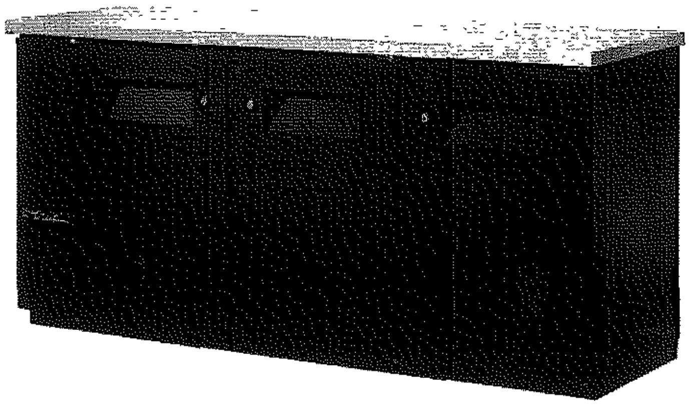
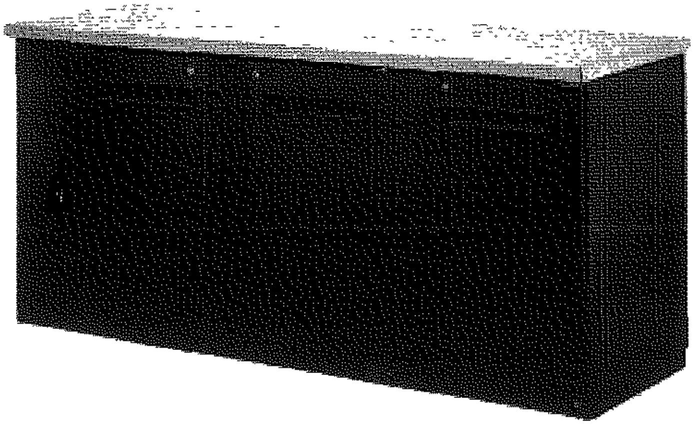
88. Defendant AdCraft has used and uses an altered photograph of the TRUE® TBB24-48 to advertise, offer for sale and sell AdCraft's and/or Xingxing's directly competing refrigeration products, true and correct copies of which are below.

True Photograph TRUE® TBB24-48	 (as used on True's website)	 (as registered)
Infringing Photograph AdCraft BDBB-5928		

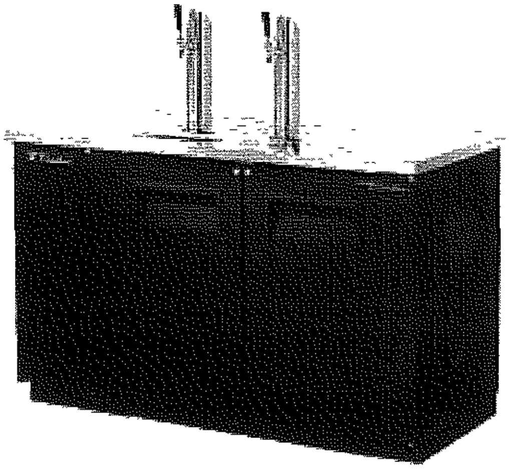
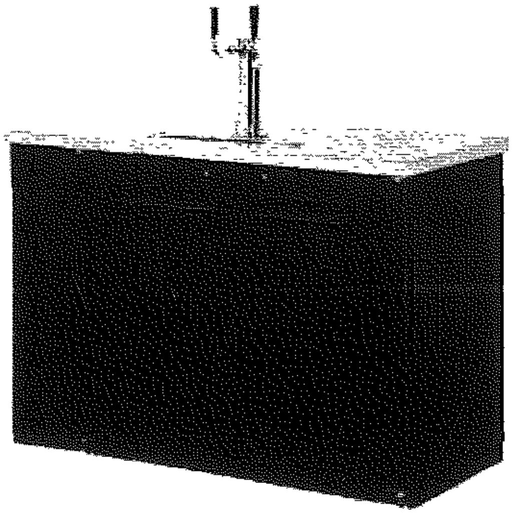
89. Defendant AdCraft has used and uses an altered photograph of the TRUE® TBB24-60 to advertise, offer for sale and sell AdCraft's and/or Xingxing's directly competing refrigeration products, true and correct copies of which are below.

True Photograph TRUE® TBB24-60	
Infringing Photograph AdCraft BDBB-6928 and USBB-6928	

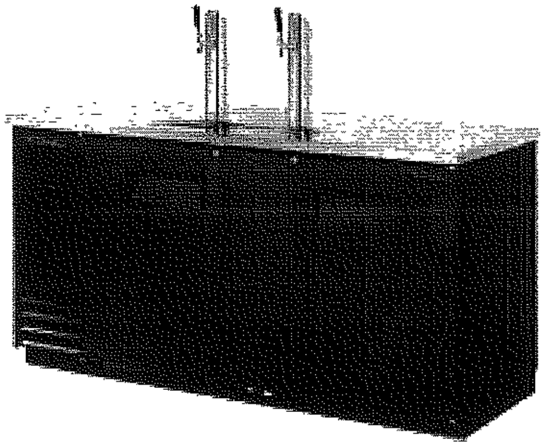
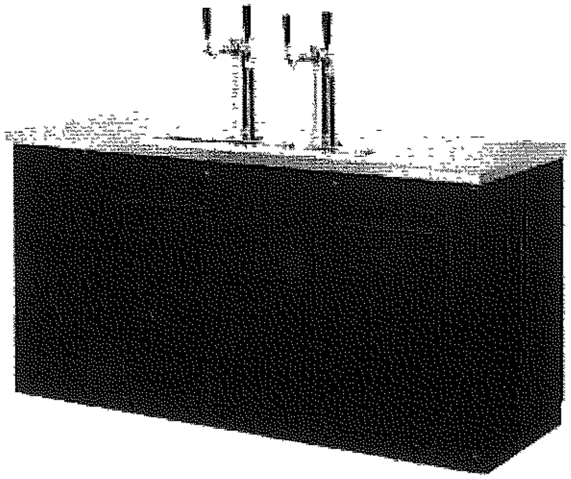
90. Defendant AdCraft has used and uses an altered photograph of the TRUE® TBB24-72 to advertise, offer for sale and sell AdCraft's and/or Xingxing's directly competing refrigeration products, true and correct copies of which are below.

True Photograph TRUE® TBB24-72	
Infringing Photograph AdCraft BDBB-9028 and USBB-9028	

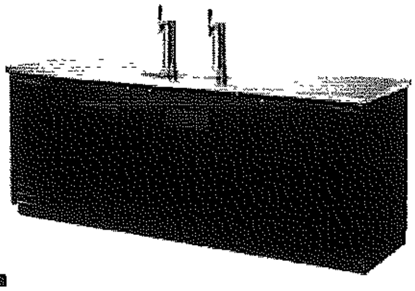
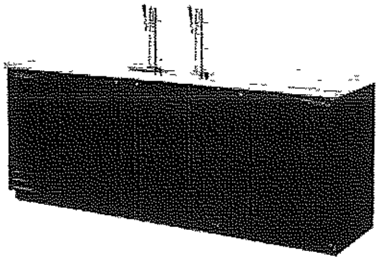
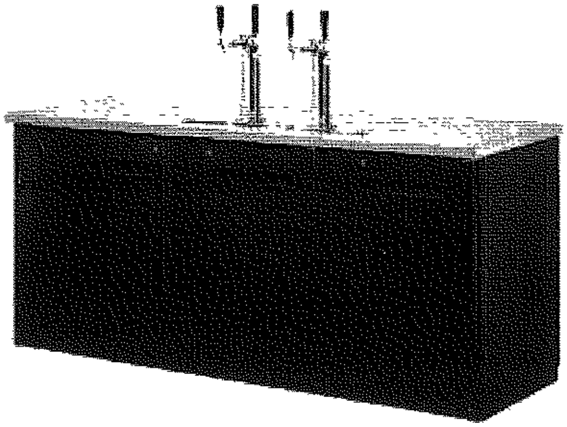
91. Defendant AdCraft has used and uses an altered photograph of the TRUE® TDD-2 to advertise, offer for sale and sell AdCraft's and/or Xingxing's directly competing refrigeration products, true and correct copies of which are below.

True Photograph TRUE® TDD-2	
Infringing Photograph AdCraft BDBD-4824/2 and 5928/2, USBD-4824/2 and 5928/2	

92. Defendant AdCraft has used and uses an altered photograph of the TRUE® TDD-3 to advertise, offer for sale and sell AdCraft's and/or Xingxing's directly competing refrigeration products, true and correct copies of which are below.

True Photograph TRUE® TDD-3	
Infringing Photograph AdCraft BDBD-6024/2 and 6928/2, USBD-6024/2 and 6928/2	

93. Defendant AdCraft has used and uses altered photographs of the TRUE® TDD-4 to advertise, offer for sale and sell AdCraft's and/or Xingxing's directly competing refrigeration products, true and correct copies of which are below.

True Photograph TRUE® TDD-4	  (as used on True's website) (as registered)
Infringing Photograph AdCraft BDBD-7224/2 and 9028/2, USBD-7224/2 and 9028/2	

94. On or about December 19, 2016, Plaintiff True, through outside counsel, contacted Defendant AdCraft to demand that it take immediate steps to cease all copying, distribution, and/or public display of such photographs, directly by it and indirectly by its distributors and/or resellers.

95. On or about December 22, 2016, Defendant AdCraft acknowledged receipt of Plaintiff True's letter, but provided no substantive response.

96. Thereafter, Defendant AdCraft removed some of the Infringing Photographs from its website, tacitly acknowledging its infringement of the True Photographs.

97. At that time, Defendant AdCraft continued to copy, distribute, and/or publicly display several other Infringing Photographs on its website, and failed to respond to Plaintiff True's correspondence.

98. On or about January 19, 2017, Plaintiff True, through outside counsel, sent a

second letter reiterating its demands to cease all copying, distribution, and/or public display of such photographs, directly by it and indirectly by its distributors and/or resellers.

99. Thereafter, Defendant AdCraft removed some additional Infringing Photographs from its website, again tacitly acknowledging its infringement of the True Photographs.

100. Nevertheless, Defendant AdCraft continues to copy, distribute, and/or publicly display several other Infringing Photographs on its website, has failed to respond to Plaintiff True's correspondence, and to True's knowledge has taken no action to cease its contributory infringement and/or the infringement of its distributors and/or resellers.

101. Third party resellers of Defendant AdCraft's products used and continue to use the Infringing Photographs in the advertising, offer for sale, and sale of Defendant AdCraft's and/or Defendant Xingxing's products.

102. Defendant AdCraft used and continues to use the Infringing Photographs, directly and/or indirectly, for the purposes of advertising, offering for sale, and selling AdCraft and/or Xingxing refrigeration products in direct competition with True's authentic TRUE® products.

103. True believes Defendant AdCraft may be copying, preparing derivative works based on, distributing, and/or publicly displaying other Infringing Photographs in addition to those specifically set forth above.

104. On information and belief, Defendant AdCraft copied, distributed, and/or publicly displayed the Infringing Photographs, and continues to do so, via the Internet and other electronic and/or print media.

105. On information and belief, Defendant AdCraft distributed and continues to distribute the Infringing Photographs to its resellers for use in their respective advertising, offer for sale, and sale of Defendant AdCraft's and/or Defendant Xingxing's products to consumers,

misrepresenting the nature and/or source of Defendant AdCraft's and/or Defendant Xingxing's products, and in direct competition with True's authentic TRUE® products.

106. On information and belief, resellers of Defendant AdCraft's products, including without limitation TheRdStore.com (a division of Restaurant Depot), J.E.S. Restaurant Equipment, Inc., RestaurantTory.com, among others, used and continue to use one or more of the Infringing Photographs in the advertising, offer for sale, and sale of Defendant AdCraft's and/or Defendant Xingxing's products.

107. The Infringing Photographs are substantially similar to the True Photographs.

108. By displaying, and by causing its resellers to display, photographs of TRUE® products, Defendant AdCraft is misrepresenting its products as TRUE® products in an attempt to deceive and confuse consumers and the relevant purchasing public.

109. Consumers, potential consumers, and the relevant public are likely to be confused, actually confused, misdirected, and deceived by use of photographs of TRUE® products in the advertising, offer for sale and sale of Defendant AdCraft's and/or Defendant Xingxing's directly competing products.

110. Without authority from True, Defendant AdCraft has misrepresented TRUE® products as AdCraft products in the advertising, offer for sale, and sale of AdCraft and/or Xingxing products, in an attempt to deceive and confuse consumers and the relevant purchasing public.

111. By distributing the Infringing Photographs to its resellers for the purposes of advertising, offer for sale and sale of AdCraft and/or Xingxing products, Defendant AdCraft intentionally induced, materially contributed to, and/or caused its resellers to misrepresent TRUE® products as AdCraft products in an attempt to deceive and confuse consumers and the

relevant purchasing public.

112. Without authority from True, Defendant AdCraft has copied, prepared derivative works based on, distributed, and publicly displayed the True Photographs and/or substantially similar copies thereof, in violation of True's exclusive rights.

113. By distributing the Infringing Photographs to its resellers for the purposes of further copying, distribution and/or public display to consumers, Defendant AdCraft intentionally induced its resellers to copy, distribute and/or publicly display the True Photographs and/or substantially similar copies thereof, in violation of True's exclusive rights.

114. In addition, Defendant AdCraft used and continues to use, without authority from True, True's TBB® trademark, and/or confusingly similar variations thereof, on and in connection with the marketing, offer for sale and/or sale of Defendant's directly competing refrigeration products, despite True's long established rights in and to the TBB® trademark.

115. Defendant AdCraft also used and continues to use, without authority from True, the True Model Designations, and/or confusingly similar variations thereof, on and in connection with the marketing, offer for sale and/or sale of Defendant's directly competing refrigeration products, including without limitation, USBB-2428, USBB-6024, BDBB-2428, and BDBB-6024 despite True's long established rights in and to the True Model Designations.

116. True believes Defendant AdCraft may be using, without authority from True, other marks and model designations of True, and/or confusingly similar variations thereof, on and in connection with the marketing, offer for sale and/or sale of Defendant's directly competing refrigeration products.

117. Consumers, potential consumers, and the relevant public are likely to be confused, actually confused, misdirected, and deceived into believing that Defendant's products are

manufactured by, affiliated with, associated with, licensed by, and/or otherwise connected to or with Plaintiff True.

COUNT I

Trademark Infringement under Section 32 of the Lanham Act (15 U.S.C. § 1114)

118. Plaintiff True realleges and incorporates the foregoing paragraphs as if fully set forth herein.

119. Plaintiff True is the owner of all right, title, and interest in and to its TRUE® Marks, and all goodwill appurtenant thereto.

120. Defendants' unlicensed and unauthorized use in commerce of Plaintiff's TRUE® Marks and confusingly similar reproductions, counterfeits, or copies, on or in connection with Defendants' products and business is likely to cause confusion, or to cause mistake, or to deceive.

121. Defendants have thus committed and are continuing to commit acts of trademark infringement in interstate commerce in violation of, *inter alia*, Section 32 of the Lanham Act, 15 U.S.C. § 1114.

122. Defendants' acts of trademark infringement have caused and will continue to cause damage and irreparable harm to Plaintiff True, and are likely to continue unabated, thereby causing further damage and irreparable harm to True and to the valuable goodwill symbolized by and associated with its distinctive and extremely well-known TRUE® Marks, unless enjoined and restrained by the Court.

123. Plaintiff True has no adequate remedy at law. If Defendants' activities are not enjoined, Plaintiff will continue to suffer irreparable harm and injury to its TRUE® Marks, its goodwill, and its reputation.

124. Defendants' trademark infringement is and was knowing and willful.

125. As a result of Defendants' activities, Plaintiff True has been damaged in an amount to be ascertained at trial.

COUNT II

Counterfeiting under Section 32 of the Lanham Act
(15 U.S.C. § 1114)

126. Plaintiff True realleges and incorporates the foregoing paragraphs as if fully set forth herein.

127. Plaintiff True is the owner of all right, title, and interest in and to its TRUE® Marks, including its federal registrations therefor, and all goodwill appurtenant thereto.

128. Defendants have used spurious designations that are identical with, and/or substantially indistinguishable from, Plaintiff's registered TRUE® Marks, on or in connection with the sale, offering for sale, distribution, or advertising of goods and/or services described in Plaintiff's registrations for its TRUE® Marks.

129. Defendants' use of Plaintiff's TRUE® Marks and/or substantially indistinguishable variations thereof in the sale, offering for sale, distribution, or advertising of their goods and/or services is without Plaintiff's consent.

130. Defendants' knowing, intentional, and unlicensed, unconsented to, and otherwise unauthorized use of Plaintiff's TRUE® Marks and/or substantially indistinguishable variations thereof on and in connection with the sale, offering for sale, distribution, or advertising of their goods and/or services constitutes counterfeiting of Plaintiff's TRUE® Marks in commerce.

131. Defendants have used these spurious designations knowing that they are counterfeit in connection with the sale, offering for sale, distribution, or advertising of said Defendants' goods and/or services.

132. Defendants have thus committed and are continuing to commit acts of trademark counterfeiting in interstate commerce in violation of, *inter alia*, Section 32 of the Lanham Act, 15 U.S.C. § 1114.

133. Defendants' acts of counterfeiting have caused and will continue to cause damage and irreparable harm to Plaintiff True, and are likely to continue unabated, thereby causing further damage and irreparable harm to True and to the valuable goodwill symbolized by and associated with its distinctive and extremely well-known TRUE® Marks, unless enjoined and restrained by the Court

134. Plaintiff True has no adequate remedy at law. If Defendants' activities are not enjoined, Plaintiff will continue to suffer irreparable harm and injury to its TRUE® Marks, its goodwill, and its reputation.

135. Defendants' counterfeiting is and was knowing and willful.

136. As a result of Defendants' activities, Plaintiff True has been damaged in an amount to be ascertained at trial.

COUNT III

Contributory Trademark Infringement under Section 32 of the Lanham Act (15 U.S.C. § 1114)

137. Plaintiff True realleges and incorporates the foregoing paragraphs as if fully set forth herein.

138. Plaintiff True is the owner of all right, title, and interest in and to its TRUE® Marks, and all goodwill appurtenant thereto.

139. Defendants intentionally induced and continue to intentionally induce distributors and/or resellers of their products to use Plaintiff's TRUE® Marks and/or confusingly similar reproductions, counterfeits, or copies thereof, to advertise, distribute, offer for sale, and/or sell Defendants' refrigeration products in direct competition with True's authentic TRUE® products.

140. Defendants, with actual or constructive knowledge of the infringing activities described herein, supplied and solicited, and continue to supply and solicit, distributors and/or resellers of their products to use Plaintiff's TRUE® Marks and/or confusingly similar reproductions, counterfeits, or copies thereof, to advertise, offer for sale, and/or sell Defendants' refrigeration products in direct competition with True's authentic TRUE® products.

141. Defendants have thus committed, and are continuing to commit, acts of contributory trademark infringement in interstate commerce in violation of, *inter alia*, Section 32 of the Lanham Act, 15 U.S.C. § 1114.

142. Defendants' acts of contributory trademark infringement have caused and will continue to cause damage and irreparable harm to Plaintiff True, and are likely to continue unabated, thereby causing further damage and irreparable harm to True and to the valuable goodwill symbolized by and associated with its distinctive and extremely well-known TRUE® Marks, unless enjoined and restrained by the Court.

143. Plaintiff True has no adequate remedy at law. If Defendants' activities are not enjoined, Plaintiff will continue to suffer irreparable harm and injury to its TRUE® Marks, its goodwill, and its reputation.

144. Defendants' contributory trademark infringement is and was knowing and willful.

145. As a result of Defendants' activities, Plaintiff True has been damaged in an amount to be ascertained at trial.

COUNT IV

Unfair Competition and False Designation of Origin Under Section 43(a) of the Lanham Act
(15 U.S.C. § 1125(a))

146. Plaintiff True realleges and incorporates the foregoing paragraphs as if fully set forth herein.

147. Defendants have displayed and continue to display photographs of Plaintiff's TRUE® products, Plaintiff's trademarks, and/or Plaintiff's True Model Designations and confusingly similar variations thereof, in the advertising, offer for sale and sale of Defendants' products, without license or authorization of True, thereby falsely misrepresenting TRUE® products as Defendants' products in an attempt to deceive and confuse consumers and the relevant purchasing public.

148. Defendants' unlicensed and unauthorized use of photographs of Plaintiff's TRUE® products, Plaintiff's trademarks, and/or Plaintiff's True Model Designations and confusingly similar variations thereof, on or in connection with Defendants' products and business is likely to cause confusion, or to cause mistake, or to deceive, consumers and the relevant public into falsely believing that Defendants are affiliated, connected, or associated with True and/or its marks.

149. Defendants' unlicensed and unauthorized use in commerce of photographs of Plaintiff's TRUE® products, Plaintiff's trademarks, and/or Plaintiff's True Model Designations and confusingly similar variations thereof, on or in connection with Defendants' products and business is likely to cause confusion, or to cause mistake, or to deceive consumers and the relevant public into believing that Plaintiff True is (i) the source or origin of Defendants' business, goods and/or services; (ii) sponsoring Defendants' business, goods and/or services; (iii)

approving Defendants' business, goods and/or services; and/or (iv) otherwise affiliated with Defendants' business, goods and/or services.

150. Defendants' unlicensed and unauthorized use in commerce of photographs of Plaintiff's TRUE® products, Plaintiff's trademarks, and/or Plaintiff's True Model Designations and confusingly similar variations thereof, on or in connection with its advertising, marketing, and promotion of its goods and/or services, constitutes a false designation of origin that wrongly suggests to the relevant purchasing public and consumers that such goods and/or services emanate from, or are licensed, endorsed, approved, or sponsored by, or are in some other way associated or connected with True and/or its marks.

151. Defendants have thus committed and are continuing to commit acts of unfair competition and false designation of origin in interstate commerce in violation of, *inter alia*, Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

152. Defendants' acts of unfair competition and false designation of origin have caused and will continue to cause damage and irreparable harm to True, and are likely to continue unabated, thereby causing further damage and irreparable harm to True and to the valuable goodwill symbolized by and associated with its distinctive and extremely well-known marks, unless enjoined and restrained by the Court.

153. True has no adequate remedy at law. If Defendants' activities are not enjoined, Plaintiff will continue to suffer irreparable harm and injury to its marks, its goodwill, and its reputation.

154. Defendants' unfair competition and false designation of origin is and was knowing and willful.

155. As a result of Defendants' activities, True has been damaged in an amount to be

ascertained at trial.

COUNT V

Contributory Unfair Competition and False Designation of Origin Under Section 43(a) of the Lanham Act
(15 U.S.C. § 1125(a))

156. Plaintiff True realleges and incorporates the foregoing paragraphs as if fully set forth herein.

157. Defendants intentionally induced, and continue to intentionally induce, the use of photographs of Plaintiff's TRUE® products, Plaintiff's trademarks, and/or Plaintiff's True Model Designations and confusingly similar variations thereof, by distributors and/or resellers in the advertising, offer for sale and sale of Defendants' products, without license or authorization of True, thereby falsely misrepresenting TRUE® products as Defendants' products in an attempt to deceive and confuse consumers and the relevant purchasing public.

158. Defendants, with actual or constructive knowledge of the infringing activities described herein, have supplied and solicited, and continue to supply and solicit, distributors and/or resellers of their products to use photographs of Plaintiff's TRUE® products, Plaintiff's trademarks, and/or Plaintiff's True Model Designations and confusingly similar variations thereof, to advertise, distribute, offer for sale, and/or sell Defendants' products in direct competition with True's authentic TRUE® products.

159. Defendants have thus committed, and are continuing to commit, acts of contributory unfair competition and false designation of origin in interstate commerce in violation of, *inter alia*, Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

160. Defendants' acts of contributory unfair competition and false designation of origin have caused, and will continue to cause, damage and irreparable harm to True, and are likely to continue unabated, thereby causing further damage and irreparable harm to True, unless enjoined and restrained by the Court.

161. Plaintiff True has no adequate remedy at law. If Defendants' activities are not enjoined, Plaintiff will continue to suffer irreparable harm and injury to its marks, its goodwill, and its reputation.

162. Defendants' contributory unfair competition and false designation of origin is and was knowing and willful.

163. As a result of Defendants' activities, Plaintiff True has been damaged in an amount to be ascertained at trial.

COUNT VI

New York Common Law Trademark Infringement and Unfair Competition

164. Plaintiff True realleges and incorporates the foregoing paragraphs as if fully set forth herein.

165. The TRUE® Marks and True Model Designations are distinctive and valid at common law and have been distinctive since prior to Defendants' conduct as described herein.

166. True has used its TRUE® Marks in interstate and intrastate commerce, including in New York, since at least as early as the 1950's.

167. True has used its True Model Designations in interstate and intrastate commerce, including in New York, since at least as early as the 1970's.

168. Defendants have displayed and continue to display photographs of Plaintiff's TRUE® products, Plaintiff's trademarks, and/or Plaintiff's True Model Designations and

confusingly similar variations thereof, in the advertising, offer for sale and sale of Defendants' products, without license or authorization of True, thereby falsely misrepresenting TRUE® products as Defendants' products in an attempt to deceive and confuse consumers and the relevant purchasing public.

169. Defendants' unlicensed and unauthorized use of photographs of Plaintiff's TRUE® products, Plaintiff's trademarks, and/or Plaintiff's True Model Designations and confusingly similar variations thereof, on or in connection with Defendants' products and business is likely to cause confusion, or to cause mistake, or to deceive, consumers and the relevant public into falsely believing that Defendants are affiliated, connected, or associated with True and/or its marks.

170. Defendants' unlicensed and unauthorized use in commerce of photographs of Plaintiff's TRUE® products, Plaintiff's trademarks, and/or Plaintiff's True Model Designations and confusingly similar variations thereof, on or in connection with Defendants' products and business is likely to cause confusion, or to cause mistake, or to deceive consumers and the relevant public into believing that Plaintiff True is (i) the source or origin of Defendants' business, goods and/or services; (ii) sponsoring Defendants' business, goods and/or services; (iii) approving Defendants' business, goods and/or services; and/or (iv) otherwise affiliated with Defendants' business, goods and/or services.

171. Defendants' unlicensed and unauthorized use in commerce of photographs of Plaintiff's TRUE® products, Plaintiff's trademarks, and/or Plaintiff's True Model Designations and confusingly similar variations thereof, on or in connection with the advertising, marketing, and promotion of their goods and/or services, constitutes a false designation of origin that wrongly suggests to the relevant purchasing public and consumers that such goods and/or

services emanate from, or are licensed, endorsed, approved, or sponsored by, or are in some other way associated or connected with True and/or its marks.

172. Defendants' acts of trademark infringement, unfair competition and false designation of origin have caused and will continue to cause damage and irreparable harm to True, and are likely to continue unabated, thereby causing further damage and irreparable harm to True and to the valuable goodwill symbolized by and associated with its distinctive and well-known TRUE® Marks and True Model Designations, unless enjoined and restrained by the Court.

173. Plaintiff True has no adequate remedy at law. If Defendants' activities are not enjoined, Plaintiff will continue to suffer irreparable harm and injury to its marks, its goodwill, and its reputation.

174. Defendants' trademark infringement, unfair competition and false designation of origin is and was knowing and willful.

175. As a result of Defendants' activities, True has been damaged in an amount to be ascertained at trial.

COUNT VII

Missouri Statutory and Common Law Trademark Infringement and Unfair Competition

176. Plaintiff True realleges and incorporates the foregoing paragraphs as if fully set forth herein.

177. The TRUE® Marks and True Model Designations are distinctive within the meaning of Chapter 417 of the Missouri revised Statutes and have been distinctive since prior to Defendants' conduct as described herein. The TRUE® Marks and True Model Designations are valid at common law.

178. True has used its TRUE® Marks in interstate and intrastate commerce, including in Missouri, since at least as early as 1945.

179. True has used its True Model Designations in interstate and intrastate commerce, including in Missouri, since at least as early as the 1970's.

180. Defendants' conduct constitutes trademark infringement, unfair competition and false designation of origin under Chapter 417 of the Missouri Revised Statutes and under common law.

181. Defendants have displayed and continue to display photographs of Plaintiff's TRUE® products, Plaintiff's trademarks, and/or Plaintiff's True Model Designations and confusingly similar variations thereof, in the advertising, offer for sale and sale of Defendants' products, without license or authorization of True, thereby falsely misrepresenting TRUE® products as Defendants' products in an attempt to deceive and confuse consumers and the relevant purchasing public.

182. Defendants' unlicensed and unauthorized use of photographs of Plaintiff's TRUE® products, Plaintiff's trademarks, and/or Plaintiff's True Model Designations and confusingly similar variations thereof, on or in connection with Defendants' products and business is likely to cause confusion, or to cause mistake, or to deceive, consumers and the relevant public into falsely believing that Defendants are affiliated, connected, or associated with True and/or its marks.

183. Defendants' unlicensed and unauthorized use in commerce of photographs of Plaintiff's TRUE® products, Plaintiff's trademarks, and/or Plaintiff's True Model Designations and confusingly similar variations thereof, on or in connection with Defendants' products and business is likely to cause confusion, or to cause mistake, or to deceive consumers and the

relevant public into believing that Plaintiff True is (i) the source or origin of Defendants' business, goods and/or services; (ii) sponsoring Defendants' business, goods and/or services; (iii) approving Defendants' business, goods and/or services; and/or (iv) otherwise affiliated with Defendants' business, goods and/or services.

184. Defendants' unlicensed and unauthorized use in commerce of photographs of Plaintiff's TRUE® products, Plaintiff's trademarks, and/or Plaintiff's True Model Designations and confusingly similar variations thereof, on or in connection with the advertising, marketing, and promotion of their goods and/or services, constitutes a false designation of origin that wrongly suggests to the relevant purchasing public and consumers that such goods and/or services emanate from, or are licensed, endorsed, approved, or sponsored by, or are in some other way associated or connected with True and/or its marks.

185. Defendants' acts of trademark infringement, unfair competition and false designation of origin have caused and will continue to cause damage and irreparable harm to True, and are likely to continue unabated, thereby causing further damage and irreparable harm to True and to the valuable goodwill symbolized by and associated with its distinctive and well-known TRUE® Marks and True Model Designations, unless enjoined and restrained by the Court.

186. Plaintiff True has no adequate remedy at law. If Defendants' activities are not enjoined, Plaintiff will continue to suffer irreparable harm and injury to its marks, its goodwill, and its reputation.

187. Defendants' trademark infringement, unfair competition and false designation of origin is and was knowing and willful.

188. As a result of Defendants' activities, True has been damaged in an amount to be

ascertained at trial.

COUNT VIII

New York Statutory and Common Law Trademark Dilution

189. Plaintiff True realleges and incorporates the foregoing paragraphs as if fully set forth herein.

190. The TRUE® Marks and True Model Designations are distinctive within the meaning of Section 360-L of the New York General Business Laws and have been distinctive since prior to Defendants' conduct as described herein. The TRUE® Marks and True Model Designations are valid at common law.

191. True has used its TRUE® Marks in interstate and intrastate commerce, including in New York, since at least as early as the 1950's.

192. True has used its True Model Designations in interstate and intrastate commerce, including in New York, since at least as early as the 1970's.

193. Defendants' advertising, promotion, sale, provision, and offering for sale of their business, goods and/or services under a mark that is identical and/or similar to Plaintiff's TRUE® Marks and True Model Designations dilutes the distinctive quality of the TRUE® Marks and True Model Designations, and has been and is being done with the willful intent to trade on Plaintiff's reputation and dilute the distinctive quality and characteristics of the TRUE® Marks and True Model Designations.

194. Defendants' advertising, promotion, sale, provision, and offering for sale of goods and services under a mark that is identical and/or similar to Plaintiff's TRUE® Marks and True Model Designations creates a likelihood of injury to Plaintiff's business reputation, and has been and is being done with the willful intent to trade on Plaintiff's reputation and/or to cause dilution

of the TRUE® Marks and True Model Designations.

195. Defendants' unauthorized use of the TRUE® Marks and True Model Designations was and is being done with full knowledge that such advertising, promotion, sale, provision, and offering for sale of goods and/or services, and operation of a business, was not authorized or licensed by True.

196. Defendants' actions violate, *inter alia*, New York General Business Law § 360-L and New York Common Law, and have damaged and will continue to damage Plaintiff and the valuable TRUE® Marks and True Model Designations, causing irreparable harm for which True has no adequate remedy at law.

197. Defendants' dilution is and was knowing and willful.

198. As a result of Defendants' activities, Plaintiff has been damaged in an amount to be ascertained at trial.

COUNT IX

Missouri Statutory and Common Law Trademark Dilution

199. Plaintiff True realleges and incorporates the foregoing paragraphs as if fully set forth herein.

200. The TRUE® Marks and True Model Designations are distinctive within the meaning of Chapter 417 of the Missouri revised Statutes and have been distinctive since prior to Defendants' conduct as described herein. The TRUE® Marks and True Model Designations are valid at common law.

201. True has used its TRUE® Marks in interstate and intrastate commerce, including in Missouri, since at least as early as 1945.

202. True has used its True Model Designations in interstate and intrastate commerce,

including in Missouri, since at least as early as the 1970's.

203. Defendants' advertising, promotion, sale, provision, and offering for sale of their business, goods and/or services under a mark that is identical and/or similar to Plaintiff's TRUE® Marks and True Model Designations dilutes the distinctive quality of the TRUE® Marks and True Model Designations, and has been and is being done with the willful intent to trade on Plaintiff's reputation and dilute the distinctive quality and characteristics of the TRUE® Marks and True Model Designations.

204. Defendants' advertising, promotion, sale, provision, and offering for sale of goods and services under a mark that is identical and/or similar to Plaintiff's TRUE® Marks and True Model Designations creates a likelihood of injury to Plaintiff's business reputation, and has been and is being done with the willful intent to trade on Plaintiff's reputation and/or to cause dilution of the TRUE® Marks and True Model Designations.

205. Defendants' unauthorized use of the TRUE® Marks and True Model Designations was and is being done with full knowledge that such advertising, promotion, sale, provision, and offering for sale of goods and/or services, and operation of a business, was not authorized or licensed by True.

206. Defendants' actions violate, *inter alia*, Missouri Revised Statutes § 417.061 and Missouri Common Law, and have damaged and will continue to damage Plaintiff and the valuable TRUE® Marks and True Model Designations, causing irreparable harm for which True has no adequate remedy at law.

207. Defendants' dilution is and was knowing and willful.

208. As a result of Defendants' activities, Plaintiff has been damaged in an amount to be ascertained at trial.

COUNT X

Copyright Infringement Under Section 501 of the Copyright Act
(17 U.S.C. § 501)

209. Plaintiff True realleges and incorporates the foregoing paragraphs as if fully set forth herein.

210. True is the owner of all right, title, and interest in and to its True Photographs, including the U.S. copyright registrations therefor. The copyrighted material is original and fixed in a tangible medium of expression.

211. On information and belief, Defendants had access to the True Photographs through True's promotional, marketing, and informational materials, including those certain materials made widely available to the general public via the Internet, tradeshows, distributor channels, and its customers, among other channels.

212. Defendants have committed and are continuing to commit acts of copyright infringement by, without authorization, copying, preparing derivative works based on, distributing, publicly displaying, and incorporating the True Photographs into Defendants' promotional and advertising materials, including the Infringing Photographs.

213. Defendants have thus committed and are continuing to commit acts of copyright infringement in violation of, *inter alia*, Section 501 of the Copyright Act, 17 U.S.C. § 501.

214. Defendants' infringements have caused and will continue to cause damage and irreparable harm to True and True's intellectual property rights, and are likely to continue unabated, thereby causing further such damage and irreparable harm, unless enjoined and restrained by the Court.

215. True has no adequate remedy at law. If Defendants' activities are not enjoined, Plaintiff and its True Photographs will continue to suffer irreparable harm and injury.

216. Defendants' copyright infringement is and was knowing and willful.

217. As a result of Defendants' activities True has been damaged and is entitled to recover its actual damages, Defendants' profits, and/or an award of statutory damages, in an amount to be ascertained at trial.

COUNT XI

Contributory Copyright Infringement under Section 501 of the Copyright Act (17 U.S.C. § 501)

218. Plaintiff True realleges and incorporates the foregoing paragraphs as if fully set forth herein.

219. Defendants have intentionally induced and continue to intentionally induce distributors and/or resellers to infringe the True Photographs.

220. Defendants knowingly infringed the True Photographs by, without authorization, copying, preparing derivative works based on, distributing, publicly displaying, and incorporating the True Photographs into Defendants' promotional and advertising materials, including the Infringing Photographs.

221. By distributing the True Photographs and/or substantially similar copies thereof to distributors and/or resellers for further copying, distribution, and public display and other use in connection with promoting, advertising, offering for sale, and selling Defendants' products in the United States, Defendants have materially contributed to, intentionally induced, and/or caused unauthorized use and/or continuing use of the True Photographs by third parties.

222. Defendants have thus committed, and are continuing to commit, acts of contributory copyright infringement in violation of, *inter alia*, Section 501 of the Copyright Act, 17 U.S.C. § 501.

223. Defendants' acts of contributory copyright infringement have caused, and will continue to cause, damage and irreparable harm to True and True's intellectual property rights, and are likely to continue unabated, thereby causing further such damage and irreparable harm, unless enjoined and restrained by the Court.

224. True has no adequate remedy at law. If Defendants' acts of contributory copyright infringement are not enjoined, Plaintiff and its True Photographs will continue to suffer irreparable harm and injury.

225. Defendants' contributory copyright infringement is and was knowing and willful.

226. As a result of Defendants' activities True has been damaged and is entitled to recover its actual damages, Defendants' profits, and/or an award of statutory damages, in an amount to be ascertained at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff True Manufacturing Co., Inc. respectfully requests the Court to enter judgment against each of Defendant Admiral Craft Equipment Corp. and Defendant Guangdong Xingxing Refrigeration Equipment Co., Ltd., as follows:

A. That the Court enter a preliminary injunction during the pendency of this action, and a permanent injunction thereafter, restraining Defendants and their employees, partners, officers, directors, agents, representatives, attorneys, successors, and assigns, and all persons in active concert or participation with any of them, from using Plaintiff's TRUE® Marks, True Model Designations, True Photographs, and/or any confusingly similar variations thereof, in any manner or form, or any other reproduction, counterfeit, copy or colorable imitation thereof, either alone or in combination with any other designation, on or in connection with any advertising, marketing, promotion, business, provision of services, offer for sale, or sale of

Defendants' goods or services, from otherwise infringing and/or diluting the distinctive nature of Plaintiff's TRUE® Marks, True Model Designations, and/or True Photographs, from causing, inducing or contributing to third party infringement and/or dilution of the distinctive nature thereof, and from otherwise competing unfairly with True.

B. That the Court enter a preliminary injunction during the pendency of this action, and a permanent injunction thereafter, restraining Defendants and their employees, partners, officers, directors, agents, representatives, attorneys, successors, and assigns, and all persons in active concert or participation with any of them, from using, copying, preparing derivative works based on, distributing, and/or publicly displaying the True Photographs, and/or any substantially similar variations thereof, and from causing, inducing or contributing to third party infringement of the True Photographs.

C. That the Court order Defendants to return to True and/or destroy and/or obliterate from any and all goods, signage, web sites, labels, brochures, advertisements, leaflets, and other items in their possession, or under their control, upon which appear or reflect the TRUE® Marks, True Model Designations, True Photographs, and/or any confusingly similar variations thereof, in any manner or form, or any other reproduction, counterfeit, copy or colorable imitation thereof, either alone or in combination with any other designation, and all plates, molds, matrices, and other means of making the same;

D. That the Court enter a judgment finding that Defendants have infringed and willfully infringed Plaintiff's TRUE® Marks, True Model Designations, and True Photographs;

E. That the Court enter a judgment finding that Defendants have committed unfair competition and false designation of origin by willfully using Plaintiff's TRUE® Marks, True Model Designations, and True Photographs;

F. That the Court enter a judgment finding that Defendants have diluted and willfully diluted Plaintiff's TRUE® Marks and True Model Designations;

G. That the Court order Defendants to pay to Plaintiff such damages as Plaintiff has actually sustained:

(a) in consequence of Defendants' infringement of and upon Plaintiff's TRUE® Marks, True Model Designations, and True Photographs;

(b) in consequence of Defendants' counterfeiting;

(c) in consequence of Defendants' false designations of origin;

(d) in consequence of Defendants' acts of unfair competition;

(e) in consequence of Defendants' dilution of Plaintiff's TRUE® Marks and True Model Designations;

(f) in consequence of Defendants' contributory trademark infringement, false designation of origin, unfair competition, and dilution of and upon Plaintiff's TRUE® Marks, True Model Designations, True Photographs;

(g) in consequence of Defendants' contributory copyright infringement;

H. That the Court order Defendants to account for and pay to Plaintiff True all profits realized by Defendants from their infringement of or upon Plaintiff's TRUE® Marks, True Model Designations, and True Photographs, and from Defendants' false designations of origin, their acts of unfair competition, their acts of trademark dilution, their acts of counterfeiting, and their acts of copyright infringement;

I. That the Court order Defendants to pay Plaintiff True statutory damages;

J. That the Court order Defendants to cease further diluting and infringing Plaintiff's TRUE® Marks, True Model Designations, and True Photographs and cease further damaging

Plaintiff's goodwill;

K. That the Court order Defendants to cause their distributors and/or resellers to cease further diluting and infringing Plaintiff's TRUE® Marks, True Model Designations, and True Photographs and cease further damaging Plaintiff's goodwill;

L. That the Court find that the circumstances and actions of Defendants' conduct was willful and sufficient to merit an award of exemplary damages to Plaintiff in the amount of three times the amount found as actual damages;

M. That the Court find that the circumstances and actions of Defendants' conduct constitutes an exceptional case.

N. That the Court order Defendants to pay Plaintiff its costs and expenses incurred in and related to this action;

O. That the Court order Defendants to pay Plaintiff's attorneys' fees; and

P. That the Court award such other and further relief as the Court deems just and proper under the circumstances.

JURY DEMAND

Plaintiff respectfully requests and demands trial by jury on all issues so triable.

Dated: March 28, 2017

Respectfully submitted,

BRYAN CAVE LLP

By: /s/ Omar Shakoor

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